



Università  
Ca' Foscari  
Venezia

Master's Degree Programme  
in Comparative International Relations

Final Thesis

***HUMAN TRAFFICKING: DIGITALISATION AND  
CLIMATE CHANGE AS THE NEW CHALLENGES TO  
TRAFFICKING IN WOMEN***

**Supervisor**

Ch. Prof. Sara De Vido

**Graduand**

Martina Forest

Matriculation Number: 869567

**Academic Year**

2022/2023



## TABLE OF CONTENTS

<b>ABSTRACT</b> .....	1
<b>TABLE OF ABBREVIATIONS</b> .....	5
<b>INTRODUCTION</b> .....	7
<b>Chapter I: INTRODUCING HUMAN TRAFFICKING</b> .....	13
1. General data on trafficking in human being.....	13
1.1. Latest trends in human trafficking.....	13
1.2. The negative impact of catastrophic events on human trafficking.....	19
1.3. Costs and profits of human trafficking.....	25
1.4. Providing a regional perspective.....	28
2. Definition of “Human Trafficking”.....	34
3. Human trafficking as a gender issue.....	38
3.1. Some data on victims of trafficking.....	38
3.2. Forms of exploitation.....	40
3.3. Causes of human trafficking.....	43
3.4. The risk of re-trafficking.....	46
<b>Chapter II: TODAY'S ANTI-TRAFFICKING LAW FROM AN INTERNATIONAL AND REGIONAL PERSPECTIVE</b> .....	50
<i>SECTION I - International law framework against human trafficking</i> .....	50
1. Convention on the Elimination of all form of Discrimination Against Women (CEDAW).....	50
1.1. General Recommendation No. 37 and General Recommendation No. 38.....	52
2. Convention on the Rights of the Child.....	54
3. United Nations Convention against Transnational Organized Crime.....	56
3.1. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.....	58
<i>SECTION II - Regional law framework against human trafficking</i> .....	64
1. The Council of Europe Convention on Action against Trafficking in Human Beings..	64
2. The European Court of Human Rights jurisprudence.....	69

3. European Union anti-trafficking law.....	73
3.1. Charter of Fundamental Rights of the European Union and articles 79 and 83 of the Treaty on the Functioning of the European Union.....	74
3.2. Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims.....	76
4. Other regional legal instruments.....	79
<b>Chapter III: THE IMPACT OF DIGITALIZATION IN WOMEN TRAFFICKING.....</b>	<b>84</b>
1. The role of digitalization in women trafficking.....	84
1.1. Recruitment.....	85
1.2. Transportation.....	87
1.3. Exploitation.....	88
2. The role of digitalization in combating human trafficking.....	92
3. International and European Law frameworks addressing the impact of digitalization in human trafficking.....	95
3.1. Between the right to privacy and cybercrime investigation and prosecution...	96
3.2. CEDAW General Recommendation no. 38.....	101
3.3. Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.....	103
3.4. Global Compact for Safe, Orderly and Regular Migration.....	106
<b>Chapter IV: THE IMPACT OF CLIMATE CHANGE IN WOMEN TRAFFICKING.....</b>	<b>109</b>
1. The 1951 Refugee Convention and the notion of "Climate Refugee" .....	109
2. The role of climate change in trafficking in persons, especially women.....	115
2.1. The influence of climate change on trafficking driving factors.....	116
2.2. Women's increased risk of exposure to trafficking as a result of climate change.....	122
3. International law and climate change: acknowledging the nexus between climate change, migration and human trafficking.....	124
3.1. The role of the UNFCCC and the Nansen Initiative.....	125
3.2. Global Compact for Safe, Orderly and Regular Migration.....	129

3.3. General recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate.....	131
<b>CONCLUSIONS.....</b>	<b>133</b>
<b>BIBLIOGRAPHY.....</b>	<b>141</b>

## ABSTRACT

La tratta di esseri umani è considerata una delle principali forme del crimine organizzato, in violazione dei diritti e della dignità umana. La tratta costituisce un grande mercato e genera enormi profitti, tanto che si stima che superi il traffico di armi e di droga in termini di redditività, ma anche in termini di incidenza e di costi per il benessere umano. Le vittime di tratta, indipendentemente dal tipo di sfruttamento, subiscono violenza e coercizione: violenza fisica, sessuale e minacce. Questi atti provocano danni alla salute fisica e mentale, comportando costi sia per la vittima, sia per la società.

All'interno di questa ricerca verrà fornita un'analisi delle caratteristiche della tratta e del quadro giuridico rilevante per la lotta al traffico di esseri umani, sia da un punto di vista internazionale che da un punto di vista regionale. Tale analisi avrà lo scopo di fornire le conoscenze preliminari necessarie a comprendere due fenomeni che di recente hanno influenzato il modus operandi e l'estensione del fenomeno della tratta. Parte dell'intento di questa ricerca, infatti, è quello di dimostrare l'estensione dell'impatto che la digitalizzazione e il cambiamento climatico stanno avendo sul panorama della tratta di esseri umani e in particolare sulla tratta delle donne.

La tratta colpisce infatti in modo sproporzionato le donne. Ciò può essere inteso sia in termini numerici, sia in termini di impatto sulla vittima. Infatti, le donne sono spesso più soggette a certi tipi di tratta, che hanno un impatto maggiore sulla salute fisica e mentale, in quanto possono causare problemi legati al genere, come gravidanze indesiderate, aborti forzati, malattie sessualmente trasmissibili, ecc. Inoltre, le donne che divengono vittime

della tratta, non solo possono subire abusi durante la fase di sfruttamento. Molto spesso, gli abusi avvengono anche durante le altre fasi, come il trasporto o l'accoglienza, e, sebbene non siano rivolti esclusivamente alle donne, queste ultime sono le vittime più frequenti. È necessario sottolineare che le donne sono anche più soggette a discriminazioni e stereotipi di genere che favoriscono l'attivazione di meccanismi di tratta e ri-tratta.

Nonostante la vastità del fenomeno e sebbene la tratta di esseri umani sia stata criminalizzata in numerosi Stati e affrontata dal diritto internazionale, la sua natura transnazionale e le sue continue evoluzioni la rendono difficile da perseguire. Questo accade sia perché spesso il crimine di tratta deve confrontarsi con il coinvolgimento simultaneo di più ordinamenti nazionali, sia perché i processi coinvolti nella tratta sono estremamente mutevoli, mentre i processi legislativi sono generalmente più lenti e meno adattabili. Un esempio lampante di quest'ultimo punto riguarda, per l'appunto, la digitalizzazione e il cambiamento climatico. Sebbene questi fenomeni, come evidenziato nel Rapporto Globale sul Traffico di Persone dell'UNODC 2022, siano già parte integrante della tratta, non sono ancora stati affrontati in modo esaustivo nel quadro giuridico internazionale.

Con lo sviluppo di nuove tecnologie e, in particolare, delle piattaforme di comunicazione, alcuni trafficanti hanno iniziato ad adattare il proprio modus operandi alle nuove opportunità che le piattaforme digitali offrono loro. Ogni giorno, queste piattaforme vengono utilizzate per l'implementazione delle diverse fasi della tratta, in particolare quelle del reclutamento e dello sfruttamento delle vittime. Al rapido emergere di questa nuova problematica, tuttavia, non è corrisposta un altrettanto rapida risposta da parte della comunità internazionale. I riferimenti al ruolo della

digitalizzazione nella diffusione della tratta sono infatti ancora pochi e insufficienti all'interno del quadro giuridico internazionale. Inoltre, oltre al poco riconoscimento del ruolo della digitalizzazione nel favorire la tratta, poche disposizioni sono disponibili in relazione alla possibilità di utilizzare il progresso tecnologico per contrastare la tratta nell'ambiente digitale.

Anche il cambiamento climatico costituisce un'opportunità per i trafficanti. La frequenza dei disastri legati al clima è aumentata negli ultimi 20 anni, con conseguente aumento degli sfollati e della perdita di mezzi di sussistenza. Solo nel 2021, oltre 23,7 milioni di persone sono state sfollate a causa di questo tipo di eventi e le temperature sempre più elevate stanno rendendo inabitabile un'area sempre più vasta del pianeta. Di conseguenza, sempre più persone saranno costrette a emigrare, con il rischio di rimanere intrappolate nelle rotte migratorie irregolari e, in seguito, nel traffico di esseri umani. Nonostante ciò, a livello giuridico, il ruolo del cambiamento climatico nel favorire la tratta è stato affrontato in maniera ancora più limitata rispetto alla digitalizzazione, così come ancor più limitati sono gli strumenti giuridici volti a regolamentare tale fenomeno. Nel tentativo di fornire una panoramica degli strumenti giuridici che riconoscessero il ruolo del cambiamento climatico nel favorire la tratta, si è illustrato il legame tra quest'ultima e la migrazione. Infatti, in assenza di misure di supporto da parte del proprio paese di origine e in mancanza di un riconoscimento speciale agli sfollati causati dal cambiamento climatico, la migrazione irregolare risulta spesso l'unica strategia di adattamento opzionabile. La migrazione irregolare, tuttavia, espone gli individui migranti a un maggiore rischio di essere trafficati.

Alla luce di quanto sopra illustrato si è cercato per prima cosa di assodare se e in quale modo digitalizzazione e cambiamento climatico abbiano un



ruolo nella tratta di esseri umani e, in particolare nella tratta delle donne. Al contempo, si è verificato l'avanzamento della risposta internazionale a queste nuove problematiche, valutando se i riferimenti diretti al ruolo della digitalizzazione e del cambiamento climatico nel contesto della tratta siano sufficienti all'interno del quadro giuridico internazionale.

## **TABLE OF ABBREVIATIONS**

ACHPR - African Charter on Human and Peoples' Rights

ACTIP - Association of Southeast Asian Nations Convention against Trafficking in Persons particularly Women and Children

ASEAN - Association of South East Asian Nations

CEDAW - Committee on the Elimination of Discrimination against Women

CETS 108 - Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

CoE - Council of Europe

COP - Conference of the Parties

CRC - Convention on the Rights of the Child

EC - European Commission

ECHR - European Convention on Human Rights

EP - European Parliament

EU - European Union

EUROPOL - European Union Agency for Law Enforcement Cooperation

EUROSTAT - European Union Statistical Office

GCM - Global Compact for Migration

GDPR - General Data Protection Regulation

GRETA - Group of Experts on Action against Trafficking in Human Beings

ICCPR - International Covenant on Civil and Political Rights

ILO - International Labour Organization

IOM - International Organization for Migration

OSCE - Organization for Security and Co-operation in Europe

SAARC - South Asian Association for Regional Cooperation

TFD - Task Force for Displacement

TFUE - Treaty on the Functioning of the European Union

UN - United Nations

UNEP - United Nations Environment Programme

UNFCCC - United Nations Framework Convention on Climate Change

UNHCR - United Nations High Commissioner for Refugees

UNICEF - United Nations Children's Fund

UNODC - United Nations Office on Drugs and Crime

## INTRODUCTION

Human trafficking is considered one of the main forms of organised crime, in violation of human rights and human dignity<sup>1</sup>. According to the UNODC Global Report on Trafficking in Persons 2022, the number of verified victims of human trafficking, reported by member states between 2017 and 2020, is almost 190 thousand. At the same time, in the aforementioned report can also be retrieved the number of persons convicted of the crime of trafficking in persons during the same period, namely approximately 20 thousand, compared to 70 thousand investigated. This low percentage of persons convicted in relation to the number of victims can be attributed to the fact that, although trafficking in human beings has been criminalised in many states and addressed by international law, its transnational nature and continuous evolution make it difficult to prosecute<sup>2</sup>.

Trafficking in human beings constitutes a large market and generates huge profits, to the extent that it is estimated to surpass weapons and drug trafficking in terms of profitability, but also in terms of incidence and cost to human welfare<sup>3</sup>. Obviously, as in the case of drug and weapons trafficking, the opportunity for profit is the main reason for the existence of trafficking. In fact, the latter responds opportunistically to the need arising from people's desire to migrate in order to improve their living conditions on the one hand and migration restrictions on the other. Thus, traffickers combine the supply of cheap labour in the country of origin with the demand for cheap labour in the country of destination<sup>4</sup>. In relation to the previously mentioned huge profits from trafficking, in 2005, the International Labour Organisation published a study on the profits from forced labour. From its findings it is possible to derive an estimate of the profits from human trafficking conducted for the purpose of coercive economic exploitation. This estimate

---

<sup>1</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, p. 1

<sup>2</sup> Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007, p. 7

<sup>3</sup> Wheaton E. M., Schauer E. J., Galli T. V., *Economics of human trafficking in Special Issue on Human Trafficking*, vol. 48, International Migration, 2010, p. 114  
<https://doi.org/10.1111/j.1468-2435.2009.00592.x>

<sup>4</sup> *Ibidem*, pp. 117-120

amounts to approximately 32 billion dollars, of which the majority (almost 15 billion) is attributed to trafficking to rich, industrialised countries<sup>5</sup>.

It should also be considered that for the first time in twenty years, the number of trafficking victims identified globally decreased by 11% in 2020. This, however, does not seem to be attributable to a general and constant decrease that will be witnessed in the coming years. The cause of this decrease, in fact, is more realistically attributable to three factors: the reduction in opportunities for traffickers to operate as a result of the preventive restrictions in place as a result of Covid-19; the relocation of some forms of trafficking to more secretive and difficult-to-detect locations again in response to the pandemic restrictions; and the decrease in institutional capacity to identify victims, probably as a result a greater commitment of resources to pandemic management that have temporarily obscured some less immediate problems<sup>6</sup>.

Considering the title of this study, namely “digitalisation and climate change as the new challenges to trafficking in women”, three elements can be identified on which the focus of the research will be placed and which will be analysed in the context of human trafficking and the legal instruments aimed at combating it. These elements are women, digitalisation and climate change.

In relation to the first element, the focus on it is meant as a result of the fact that human trafficking disproportionately affects women (a term that is understood here in the broadest sense of female individuals, thus excluding the intention to include only a predetermined age group). This can be understood both in numerical terms, as women represent the largest number of identified trafficked persons, and in terms of impact on the victim. In fact, women are often more prone to certain types of trafficking, such as trafficking for sexual exploitation, forced domestic labour, forced marriage, which have a greater impact on their physical and mental health, as they can cause gender-related problems, such as unwanted pregnancies, forced abortions, sexually transmitted

---

<sup>5</sup> ILO, *PROFITS AND POVERTY: The economics of forced labour*, Geneva, 2014, pp. 12-15  
[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf)

<sup>6</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. IV-VI, 17-21  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

diseases, etc.<sup>7</sup> Furthermore, women are also more prone to discrimination and gender stereotypes that favour the activation of trafficking and re-trafficking mechanisms<sup>8</sup>.

In relation to the other two elements, however, attention has been drawn to two recent phenomena that have influenced trafficking and favoured the activation of its mechanisms. The first phenomenon is digitalisation. The term digitalisation refers to *“the use of digital technologies to change a business model and provide new revenue and value-producing opportunities”*<sup>9</sup>. With the spread of digitalisation and, in particular, of communication platforms, some traffickers have started to adapt their modus operandi to the new opportunities offered by digital platforms. Every day, these platforms are used to implement the different stages of trafficking, in particular those of recruitment and exploitation of victims<sup>10</sup>. The most commonly used means are social media that have become more and more commonly used by traffickers, becoming an emerging threat in human trafficking<sup>11</sup>. Another point in favour of traffickers resulting from digitalisation is the possibility to operate across borders and in several places at the same time, without any need to move or relocate victims. In fact, the latter can also be exploited through the creation of multimedia content that can be uploaded into cyberspace, thus connecting traffickers, victims and final consumers<sup>12</sup>.

The second recent phenomenon to affect trafficking is climate change. Climate change refers to *“the long-term changes in the Earth’s climate that are warming the atmosphere, ocean and land [...] affecting the balance of ecosystems that support life*

---

<sup>7</sup> Basu S., Kirby p. and Shepherd L. J., *New Directions in Women, Peace and Security*, Bristol University Press, 2020, pp. 193-196

<https://doi.org/10.2307/j.ctv12sdx3t>

<sup>8</sup> IOM, *The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database*, 2010, pp. 11-18

<https://publications.iom.int/books/causes-and-consequences-re-trafficking-evidence-iom-human-trafficking-database>

<sup>9</sup> Forbes, *Digitization, Digitalization, And Digital Transformation: Confuse Them At Your Peril*, 29 April 2018

<https://www.forbes.com/sites/jasonbloomberg/2018/04/29/digitization-digitalization-and-digital-transformation-confuse-them-at-your-peril/>

<sup>10</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 119-128

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>11</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, p. 216

<sup>12</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, pp. 1,2

[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

*and biodiversity, and impacting health*"<sup>13</sup>. Climate change can be the trigger for fast-onset natural disasters such as fires, floods, earthquakes, etc.; and slow-onset disasters, which can be caused in the long run by phenomena such as desertification, rising sea levels, ocean acidification, etc. Indeed, a situation of economic destabilisation, combined with a lack of economic opportunities, leads people to implement survival strategies, albeit often risky, such as irregular migration and involvement in trafficking<sup>14</sup>. The frequency of climate-related disasters has increased over the past 20 years, resulting in increased displacement and loss of livelihood<sup>15</sup>. One factor that plays an important role in defining the degree of vulnerability to trafficking following an environmental disaster is the nature of the government's response. Indeed, in a time of crisis, a state may be diverted from its ability to protect its citizens from possible involvement in trafficking<sup>16</sup>. These three elements - women, digitalisation and climate change - will each be analysed in relation to human trafficking. At the same time, international and regional legal instruments aimed not only at counteracting trafficking, but also at counteracting the role of digitalisation and climate change in encouraging trafficking, especially in trafficking in women, will be presented. In fact, the aim of this research is first to ascertain whether and how digitalisation and climate change play a role in human trafficking and especially in trafficking in women. At the same time, the progress of the international response to these new issues will be examined, assessing whether the provisions on the role of digitalisation and climate change in the context of trafficking are sufficient within the international legal framework.

In order to achieve the purpose of the research, the study has been divided into four chapters. The first chapter deals with presenting the phenomenon of human trafficking. The first part will attempt to understand the extent and roots of trafficking, providing definitions, information, overall data and a general overview of the social, economic and political factors that contribute to its growth. Demand is a driving force behind trafficking, but so are social, cultural, political and economic issues. In the second part

---

<sup>13</sup> UNDP Climate Promise, *The Climate Dictionary: An everyday guide to climate change*, 2 February 2023 <https://climatepromise.undp.org/news-and-stories/climate-dictionary-everyday-guide-climate-change>

<sup>14</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 62, 63 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>15</sup> *Ibidem*, pp. 61-62

<sup>16</sup> IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis*, Geneva, 2015, pp. 31, 32 <https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>

of the chapter, the latest trends in human trafficking will be analysed and an overview of the emerging problems in relation to trafficking will be provided. Following this, in the third part, the focus will be on human trafficking as a gender issue. It will be shown, through gender data, how both the main form of exploitation, sexual exploitation, and the main causes of trafficking make women more at risk and more vulnerable to trafficking. Furthermore, the phenomenon of re-trafficking will be discussed in order to make the discourse on human trafficking as a gender issue more comprehensive.

The second chapter will focus on presenting today's anti-trafficking legislation from both an international and a regional perspective. In the first part, dedicated to the international perspective, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Rights of the Child and the United Nations Convention against Transnational Organised Crime together with its Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, will be introduced. In the second part, the chapter will focus on regional instruments aimed at combating trafficking. The initial focus will be on the European legal framework for which the Council of Europe Convention on Action against Trafficking in Human Beings, the role of the jurisprudence of the European Court of Human Rights and the European Union's anti-trafficking law are analysed. In relation to the latter, the Charter of Fundamental Rights of the European Union, Articles 79 and 83 of the Treaty on the Functioning of the EU and Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting victims were analysed. Other regional instruments, namely the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Arab Charter on Human Rights, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for the Purposes of Prostitution and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, will be introduced to conclude this second part.

The third chapter will focus on the impact of digitalisation on trafficking in women. The first part of the chapter will provide a concrete overview of how digitalisation and digital technologies can be used by trafficked persons in the different stages of trafficking and, in particular, in the recruitment, transportation and exploitation phases. A gender perspective focusing on women will then be provided at the end of each stage. Following



this, in the second part, an attempt will be made to substantiate the role that digitalisation has and could have in counteracting human trafficking, while assessing the limits that the implementation of such practices may have. To this end, in the third part of the chapter, concerning the international and European legal frameworks addressing the impact of digitalisation in human trafficking, the boundary between the right to privacy and the investigation and prosecution of cybercrimes will first be addressed. Once the parenthesis on the right to privacy is over, some international and regional legal instruments addressing the role of digitalisation in human trafficking will be presented. These instruments are respectively CEDAW General Recommendation 38, the Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and the Global Compact for Safe, Orderly and Regular Migration.

Finally, the fourth chapter will analyse the impact of climate change on human trafficking and, in particular, on trafficking in women. In the first part, the relationship between migration and trafficking will be introduced. It will be emphasised that in the absence of supportive measures by one's country of origin and in the absence of international recognition of a special status for climate change displaced persons, irregular migration is often the only viable adaptation strategy. Irregular migration, however, exposes individual migrants to an increased risk of being trafficked. In this context, the concept of 'climate migrant' will be introduced, relating it to the 1951 Refugee Convention. In the second part, the role of climate change in human trafficking will be concretely analysed, focusing on the influence of climate change on trafficking triggers and assessing the increased risk for women to be exposed to trafficking due to climate change. Then, in the final part of the last chapter, international instruments that have an actual or potential role in counteracting the impact of climate change on trafficking will be analysed, recognising the link between climate change, migration and trafficking.

## Chapter I: INTRODUCING HUMAN TRAFFICKING

### 1. General data on trafficking in human being

This chapter attempts to comprehend the breadth and roots of human trafficking by providing definitions, information, overall data and a general overview of the social, economic, and political factors that contribute to its growth. The first part of this chapter is aimed at analysing the latest human trafficking trend and give an overview of emerging problems in relation to trafficking. The second part will explain what human trafficking is, by giving a definition of the latter. In the third part of this chapter, the attention will focus on human trafficking as a gender issue. It will be displayed, through gender-based data, how both the main form of exploitation, namely sexual exploitation, and the main leading causes of trafficking, render women more at risk and more vulnerable to the latter. Furthermore, the phenomenon of re-trafficking will be discussed in order to make the discourse on trafficking in human being as a gender issue more exhaustive.

Focusing on this first section, in order to better understand the complexity of the issue of human trafficking, some data will be analysed to demonstrate the general dynamics of trafficking. In particular, the latest trends observed from the analysis of trafficking data will initially be discussed. Subsequently, an examination of costs and revenues will be presented, highlighting one of the drivers of the business of trafficking, namely the extensive profits. Finally, a regional overview of trafficking data will be proposed, in an attempt to map the most frequent routes and provide a region-by-region perspective on the intrinsic trafficking situation.

#### 1.1. Latest trends in human trafficking

Considering the data provided by the UNODC Global Report on Trafficking in Persons 2022, it is possible to highlight and analyse a few trends that have characterised human trafficking in recent years.

Firstly, the number of detected victims has dropped for the first time in 20 years. This drop consists of 11% fewer detected victims compared to 2019, where most remarkable reductions were registered in trafficking for the purpose of sexual

exploitation (down by 24%) and in cross-border trafficking (down by 21%). Three factors may have particularly contributed to this shift in trends: reduced opportunities for traffickers to operate as a result of Covid-19 preventive restrictions; some trafficking forms moving to more secretive and unlikely to be discovered locations and a decreased institutional capacity to identify victims. With regard to the last one, it is possible to highlight how lower victim counts in low- and medium-income nations were a major factor in this decline. Since pandemic preventive efforts occupied the majority of each state's resources, Member States in these regions have attributed these lower detection rates to decreased law enforcement involvement in anti-trafficking activities. Indeed, in North America and Europe, the number of victims identified in 2020 was slightly higher than in 2019<sup>17</sup>.

Tab. 1: Total victims detected per 100.000 population, 2003-2020



UNODC, *Global Report on trafficking in persons*, New York, 2022

Regarding the second trend observed, the pandemic also appears to have affected the characteristic of trafficking. As a matter of fact, again for the first time in 20 years, the data recorded showed an equal level of victims trafficked for sexual exploitation and those trafficked for forced labour. This data is both due to the diminished

<sup>17</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. IV-VI, 17-21 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

number of victims detected that have been trafficked for sexual exploitation and to a larger percentage of victims trafficked for the aim of forced labour. For what concerns the latter, it is worth highlighting that, over the previous ten years, there have been a growing number of male victims, both boys and men, that together represent almost 70% of victims trafficked for the purpose of forced labour<sup>18</sup>. Indeed, despite the global decline in detection, male victims are the only profile that is being reported more frequently, up roughly 3% from 2019<sup>19</sup>.

Indeed, it is also necessary to consider that data regarding the number of victims of sexual exploitation may not provide an accurate representation of reality. It is indeed likely that, due to the restrictive measures resulting from the pandemic (including the limited possibility of movement and the closure of nightlife locations), sexual exploitation activities, and thus also trafficked victims for the purpose of sexual exploitation, have been moved to more secluded places, from streets or brothels to private households or online sites<sup>20</sup>. Recent studies carried out in the Netherlands, Belgium, and Spain show that prostitution changed during and after the lockdown in 2020, moving toward less obvious forms. In the Netherlands, prostitutes on the streets, in brothels, and in windows were compelled to work in less safe environments (as escorts and in private settings)<sup>21</sup>. Prostitutes in Spain who were questioned for a different study had shifted their operations into their own residences. These individuals, who showed multiple signs of being trafficked, stated that their primary motivation for continuing to work throughout the pandemic was their fear of losing their money and the ensuing inability to pay their rent<sup>22</sup>. Another research revealed that the pandemic changed also the sexual exploitation landscape in Northern Italy. People engaged in street prostitution in urban areas, resulted to be more vulnerable to sexual exploitation because they were unable to access support

---

<sup>18</sup> Ibidem, p 22

<sup>19</sup> Ibidem, p. XI

<sup>20</sup> Ibidem, p.42

<sup>21</sup> Azam A., Adriaenssens S. and Hendrickx J., *How Covid-19 affects prostitution markets in the Netherlands and Belgium: dynamics and vulnerabilities under a lockdown*, European Societies, 2020, vol. 23, pp. 484-487

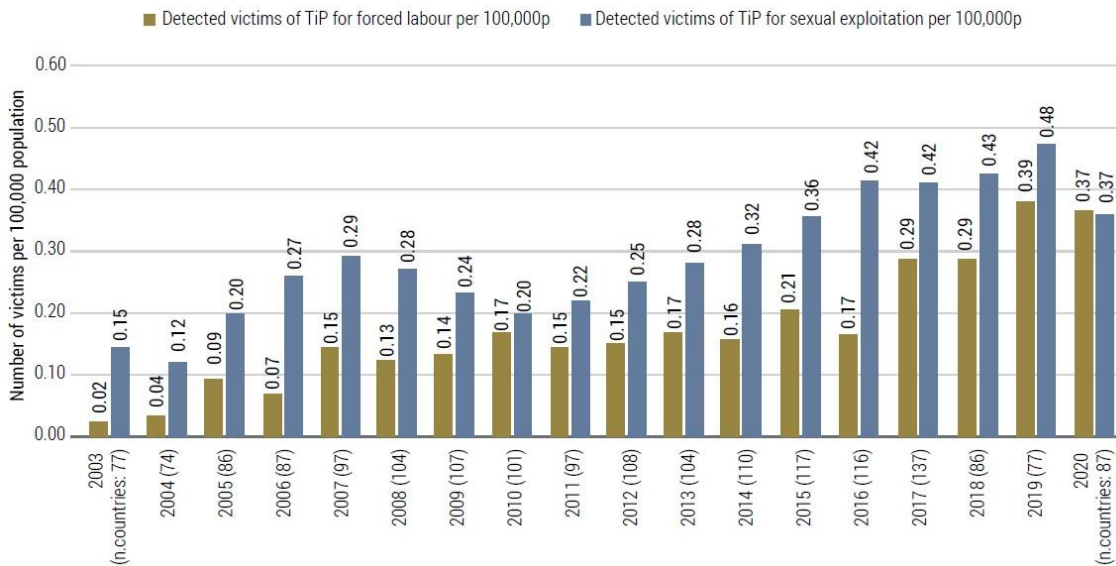
<https://doi.org/10.1080/14616696.2020.1828978>

<sup>22</sup> Burgos C. R. and Plaza Del Pino F. J., *'Business can't stop.' Women engaged in prostitution during the COVID-19 pandemic in southern Spain: A qualitative study*, Women's Studies International Forum, 2021, vol. 86, pp. 3-6

<https://doi.org/10.1016/j.wsif.2021.102477>

networks or return to their country of origin due to restrictions on their freedom of movement. Under this condition and unable to work in public areas, in order to get food and shelter, victims of trafficking implemented three main “solutions” to survive. The first one was to rely even more on their respective traffickers/abusers. As a result, these women and girls frequently accrued debt with their traffickers as their financial instability increased. The second solution was to rely on their clients, asking them for money or for accommodation or finding clients able to meet them in hotels or at their apartment. The last solution implemented was to move to online prostitution<sup>23</sup>.

Tab. 2: Detected victims trafficked for forced labour vs. sexual exploitation, per 100,000 population, 2003-2020



UNODC, *Global Report on trafficking in persons*, New York, 2022

The third trend that can be identified is the delay of judicial systems in pronouncing their sentences in relation to human trafficking crimes and the slowdown of institutional forces in flushing out traffickers and their victims. Regarding the tracking of traffickers and victims, through the Global Report on Trafficking in Persons 2022, it can be observed how the majority of rescued victims have been saved thanks to

<sup>23</sup> Cabras F. and Ingrassì O., *Female Migrant Street Prostitution during COVID-19 in Milan. A Qualitative Study on How Sex Workers Coped with the Challenges of the Pandemic*, Sociologica, 2022, vol. 16, pp. 104-109  
<https://doi.org/10.6092/issn.1971-8853/13344>

their own initiative, self-reporting to authorities after having escaped. Not even one case in three was solved by pro-active authorities' actions, including operations aimed at human trafficking but also associated with other crimes like narcotics trade or unlawful migration. More specifically, 41% of victims were rescued thanks to their own initial action, while only 28% were saved thanks to institutional forces' initial action. In a lower number of instances, the victim's family took action and reported the missing person (10%). Finally, a small number of cases are revealed as a result of the actions of other organizations (9%), such as hospitals, schools, labour inspectorates, or NGOs, or as a result of community actions (11%), such as neighbours, clients of the victim who have been tracked, or regular people noticing something odd and reporting it to the police<sup>24</sup>. This data is particularly alarming as, because of psychological mechanisms like denial or repression, limited understandings of victimization, limited knowledge of their rights, and acceptance of the situation of exploitation as a result of their irregular migration status, most victims of trafficking do not consider themselves as such and decide not to self-report<sup>25</sup>, making it more difficult to track down the traffickers and rescue other victims within the same group. Furthermore, it has also to be mentioned the fact that many of the victims never get the possibility to escape or seek for help<sup>26</sup>, especially considering nowadays' tracking technologies.

Another worrying factor in relation to the role of institutions is the number of people convicted of human trafficking. From the Global Report, it can be observed that, compared to 2019, globally, there has been a 27% decrease in those convicted of the crime of trafficking<sup>27</sup>. Over the past ten years, it appears that the probability that an investigation in trafficking will result in a conviction has decreased. Between 2017 and 2020, are, on average, the number of people prosecuted is half the number of people investigated for the crime trafficking in persons. Moreover, only 24% of those prosecuted were found guilty. In light of this, barely 12% of those under investigation for trafficking between 2017 and 2020 were actually convicted. This level of

---

<sup>24</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. VI, 68-69 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>25</sup> *Ibidem*, p.68

<sup>26</sup> *Ibidem*, p. VI

<sup>27</sup> *Ibidem*, p. 64

conviction is lower than that found in a comparable analysis for the years 2008 to 2012, when 24% of investigations resulted in convictions<sup>28</sup>.

Although it may be thought that this decrease may be due to the increased difficulty of tracing traffickers during Covid-19 or the general slowdown caused by the pandemic, the data show that this is not the reality. In fact, it can be seen that compared to the 27% decrease in the number of people convicted of trafficking, the decrease in the number of people brought to court is only 5%, while the decrease in the number of people investigated is barely 2%. This means that the slowdown relates more to the trial phase rather than to investigations or prosecutions. Moreover, it is not even possible to attribute the drop in convicted persons to the general slowdown caused by the pandemic. As a matter of fact, this is a trend that began back in 2017, since when there has been a 44% drop in trafficking convictions globally. However, this phenomenon is not isolated: the decrease in convicted persons also affected convictions for murder and those for trafficking in drugs<sup>29</sup>.

Tab. 3: Global trend in convictions for trafficking in persons, 2017-2020 (2017 base year)



UNODC, *Global Report on trafficking in persons*, New York, 2022

<sup>28</sup> Ibidem, p. 67

<sup>29</sup> Ibidem, p. 64

Giving a geographical prospective, although most countries recorded a drop in convictions, it appears that some regions, such as Western and Southern Europe (-45% of people convicted compared to 2019) Latin and America (between -46% and -54%) and South Asia (-56%), were more affected by this phenomenon. Conversely, Sub-Saharan Africa (+22%) and Central and South-Eastern Europe (+14%) registered an increase in convictions for the crime of trafficking compared to 2019<sup>30</sup>. However, despite this encouraging data on the increase of persons convicted of trafficking in Sub-Saharan Africa, it should also be noted that Sub-Saharan Africa, together with South Asia, are the regions with the lowest number of trafficking convictions and identified trafficking victims. At the same time, however, globally, more and more trafficking victims are reported coming from these same regions. In fact, the longer traffickers remain unpunished within the territory in which they operate, the freer they will be in trafficking victims both domestically and internationally<sup>31</sup>.

## 1.2. The negative impact of catastrophic events on human trafficking

Catastrophic events have a negative impact on human trafficking. Such events can consist of disasters caused by wars and conflicts, but also disasters caused by natural or climate-related events, such as earthquakes, hurricanes, floods, etc. With regard to armed conflicts, they contribute to render people more susceptible to trafficking both inside and outside of conflict zones. People who are forced to run are frequently in need of assistance financially, making them easy prey for traffickers. As an example, it could be mentioned the correlation between the exodus of individuals from Ukraine in 2014 and 2015, as a result of the conflict in the East of the nation, and the rise in the discovery of human trafficking from Ukraine to Western and Central Europe in the years that followed. Throughout the current conflict, the vulnerability to trafficking may be lessened than it was in 2014 thanks to the regular migration program offered by the EU to Ukrainian residents. However, if mitigating measures are not put in place, there is still a chance that the ongoing conflict in Ukraine would claim an unparalleled number of lives<sup>32</sup>.

---

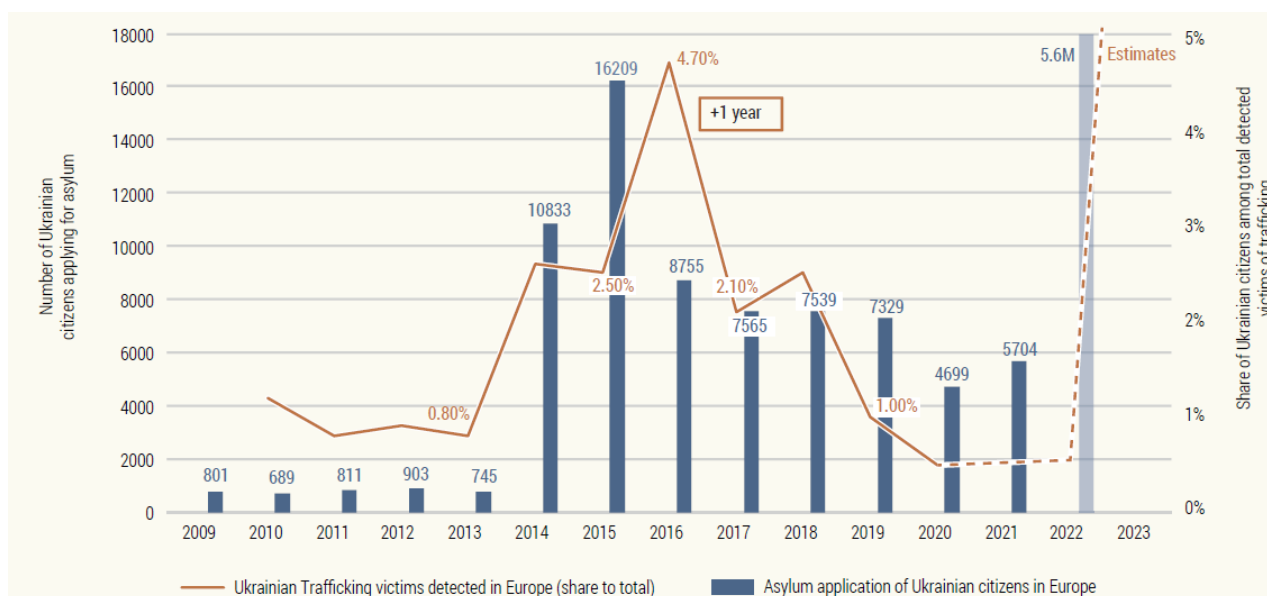
<sup>30</sup> Ibidem, pp. 64-65

<sup>31</sup> Ibidem, p. VIII

<sup>32</sup> Ibidem, p. IX



Tab. 4: Relationship between Ukrainian asylum applications and detection of Ukrainian trafficking victims in Western and Central Europe from 2009 to 2022



UNODC, *Global Report on trafficking in persons*, New York, 2022

Certain forms of trafficking, such as sexual exploitation, enslavement, forced marriage, forced labour to support military operations, recruitment and exploitation of child soldiers, and the removal of organs to treat combatants' injuries or fund operations, are particularly common in the context of armed conflict<sup>33</sup>. Concerning sex trafficking, the latter is often used as an incentive or reward for combat forces that are mobilised with the promise of having sex slaves at their disposal<sup>34</sup>. There are several examples showing that in places where armed forces are deployed, there are higher numbers of victims trafficked for the purpose of being sexually exploited. One of the most striking historical examples of trafficking for sexual exploitation is that of the Korean “Comfort Women” who were deported to Japan in the light of false promises of education and well-paid jobs in order to satisfy the Japanese army during the Second World War. Another example concerns UN peacekeepers who faced

<sup>33</sup> Bigio J. and Vogelstein R., *Understanding human trafficking in conflict*, Council on Foreign Relations, 2019, p. 3

<http://www.jstor.org/stable/resrep21427.4>

<sup>34</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, p. 54  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

several allegations of sexual exploitation and abuse in countries like the Central African Republic, Haiti, and South Sudan. Forced marriage is also among the forms of incentives to mobilize armed forces, who participate in battle as a result of the promise to obtain a woman as a bride. Women and girls are forced to marry fighters, clean, cook, satisfy their husbands, and sometimes participate in armed attacks<sup>35</sup>.

With regard to forced labour, armed organizations frequently use abducted individuals, members of ethnic minorities, or those fleeing a war to their advantage by making them carry heavy military equipment, work as porters, or participate in looting and pillaging. Armed groups forced internally displaced persons in the Democratic Republic of the Congo to work in gold and mineral mines. The need for inexpensive labour may expand in post-conflict nations as they begin to restore their infrastructure and societies. In Iraq, for example, Ukrainian construction workers were kept against their will and forced to work at reconstruction sites<sup>36</sup>.

Regarding organ trafficking, criminals take advantage of the weakening of the rule of law and the greater vulnerability of displaced populations to obtain people's organs for financial gain or to heal wounded combatants. The illegal organ trade is profitable; there is a great demand for the organs, and purchasers are willing to pay a hefty price to obtain them outside of the official transplantation process. It is believed that up to 10% of all transplants are carried out using illegally obtained organs, and some estimates place the annual revenue from organ trafficking between \$840 million and \$1.7 billion. Organ trafficking victims are enlisted via trickery, intimidation, and the exploitation of weaknesses. However, many victims are not aware of the procedure's nature or how it may affect their health. As an example, African immigrants, many of whom were fleeing war, were compelled to sell their organs in order to travel to Europe. At the same time, refugees from Syria have traded their organs for money and support from Lebanon's immigration authorities<sup>37</sup>.

---

<sup>35</sup> Bigio J. and Vogelstein R., *Understanding human trafficking in conflict*, Council on Foreign Relations, 2019, pp. 4-6, 8-9  
<http://www.jstor.org/stable/resrep21427.4>

<sup>36</sup> *Ibidem*, pp. 6-7

<sup>37</sup> *Ibidem*, p. 8

Finally, with regard to the trafficking of children in armed conflicts, many children or young people are trafficked for recruitment by both government forces, although to a lesser extent, and non-government forces, whether allied or enemies of government forces<sup>38</sup>. Due to relocation, family separation, or inability to attend school, children are particularly vulnerable to trafficking by armed groups. Even if kidnapping or coercion are common forms of recruiting, some families and communities nonetheless feel the duty of giving their kids to armed groups, especially if they see them as a security guarantee or if they have ties to them on the basis of geography, ethnicity, or religion. When other means of support are scarce, children may also join armed groups to make money. For example, in Sudan, young people from the Darfur region were persuaded to fight alongside Saudi-allied forces in Yemen in exchange for meagre pay that nonetheless provided a lifeline for their families<sup>39</sup>. Today, the internet and social media also play the role of facilitators of trafficking, including child trafficking by armed groups. For example, the Islamic State is very astute when in using social media; for instance, it launched a social media campaign to recruit Western women and girls from the United States and across Europe in order to help with the caliphate's construction<sup>40</sup>. Most trafficked children are male, enlisted at an early stage, either to take direct part in the fight or to be employed in the role of messengers, couriers to transport materials and explosives in support of troops or to guard military checkpoints. Girls, on the other hand, are more often employed as spies, as decoys to attract other fighters or to do household chores<sup>41</sup>. Additionally, terrorist organizations are increasingly deploying youngsters as suicide bombers. In recent years, approximately 20% of Boko Haram's suicide bombers have been kids or teenagers. Similar to this, the Islamic State has abducted and prepared young Yazidi males to commit suicide bombers<sup>42</sup>.

---

<sup>38</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, p. 53 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>39</sup> Bigio J. and Vogelstein R., *Understanding human trafficking in conflict*, Council on Foreign Relations, 2019, pp. 7-8

<http://www.jstor.org/stable/resrep21427.4>

<sup>40</sup> Ibidem, p. 8

<sup>41</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, p. 53 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>42</sup> Bigio J. and Vogelstein R., *Understanding human trafficking in conflict*, Council on Foreign Relations, 2019, p. 7

<http://www.jstor.org/stable/resrep21427.4>

In addition to being a cause of internal or inward trafficking, war is also a cause of outward trafficking. Being aware of the possibility to take advantage of their desperation, traffickers frequently target refugees fleeing war and persecution. People who are forced to flee often leave behind their homes and families, and a common tactic for traffickers who operate in conflicts areas is to take advantage of refugees' immediate need to emigrate to safe nations. That is because refugees frequently have no choice but to rely on offers of apparently safe passage across borders, not being conscious that these could lead to exploitative circumstances at their destination or while traveling. People fleeing conflicts are more susceptible to human trafficking when there is a sudden, massive movement of people caused by an event that catches them off guard. That is because in such occurrences, civilians are frequently forced to abandon everything they own and may have to flee on foot without access to food, water, shelter, or money. The number of Afghan immigrants and refugees observed traveling to Europe, when, in 2021, the violence in Afghanistan escalated and a new government was installed there, can serve as an illustration. After the 2021 change of regime, Afghan victims of human trafficking had largely been identified in several regions of the world, including Australia and Western and Southern Europe<sup>43</sup>.

The second group of catastrophic events with a negative impact on trafficking that have been mentioned are those caused by natural or climate-related disasters, such as earthquakes, hurricanes, floods, etc. Indeed, as with armed conflicts, a situation of economic destabilisation, together with a lack of economic opportunities, leads people to implement survival strategies, albeit often risky ones. The frequency of climate-related disasters has increased over the past 20 years, resulting in a rise in displacement and loss of livelihoods. More than 23.7 million people were displaced by these kinds of events in 2021 alone. Increasingly high temperatures are making an ever-larger area of the planet uninhabitable. As a result, more and more people will be forced to emigrate, running the risk of being caught up in the migration routes. In fact, it is estimated that by 2050, climate change may have had such a considerable impact that 216 million people will be forced to migrate within or

---

<sup>43</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 54-56 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

outside their country<sup>44</sup>. Indeed, an environmental disaster causes extensive damage over a generally vast territory, forcing large groups of individuals to move in search of better living conditions. In particular, the poorest communities that rely on the primary economic sector for their livelihoods, such as agriculture, fishing, resource extraction, etc., are affected disproportionately. Since these types of activities are generally more difficult or impossible to engage in following an environmental disaster, these individuals lose their source of livelihood and find themselves forced to leave, often unable to rely on external support from acquaintances or government aid. No doubt, in this type of situation, traffickers find fertile ground for recruitment campaigns<sup>45</sup>. In fact, environmental catastrophes on the one hand increase the risk of some people being trafficked, while on the other hand providing an incentive for others to engage in trafficking operations<sup>46</sup>. Another factor that plays an important role in defining the degree of vulnerability to trafficking following an environmental disaster is the nature of the government's response. Indeed, in a time of crisis, a state may be diverted from its ability to protect its citizens from possible involvement in trafficking. It is clear that during a situation of emergency, a government will divert most of its attention and resources towards crisis management, paying less attention to criminal actions, border security and possible corruption of state officials, thus providing an unintentional free pass to traffickers<sup>47</sup>. Moreover, it is also clear how the quality of state policies and resources influence vulnerability to trafficking. A clear example is the possibility for individuals affected by a climate disaster to have access to economic support, so that they are no longer forced to rely on risky coping mechanisms that may lead to recruitment by traffickers<sup>48</sup>.

Comprehensive research is still needed to fully understand how climate change affects human trafficking; however, several cases demonstrate how weather-related natural disasters might increase the danger of human trafficking. For example, in the

---

<sup>44</sup> Ibidem, pp. 61, 62

<sup>45</sup> Ibidem, pp. 62, 63

<sup>46</sup> IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis*, Geneva, 2015, pp. 31, 32  
<https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>

<sup>47</sup> Ibidem, pp. 31, 32

<sup>48</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 36, 37

[https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

Philippines, in 2013, Typhoon Haiyan caused 6,300 deaths and displacement of 4.4 million people, particularly in the Eastern Visayas region. The damage to agricultural and fishing industries led to an estimated 21,000 families losing their livelihoods and, subsequently, between 2013 and 2015, authorities registered about 670 cases of trafficking in the area impacted by the typhoon alone, reporting an increment of cases compared to the years before the disaster. Again, in 2021, Typhoon Rai caused displacement of over 590,000 people in the Philippines, putting 2.2 million workers at risk of exploitation. Similarly, cyclones in Bangladesh have caused crop failures and many damages to properties leading a significant part of population below the national poverty line. Under this condition, many were led to forced and debt-bonded labour in fisheries and factories, while many others decided to migrate, becoming a target for traffickers. Again, floods and droughts in Ghana have forced migration, with an increasing number of cases of trafficking of children for forced marriage or labour exploitation. Finally, as a last example, in the Caribbean, hurricanes, loss of employment opportunities, rising sea levels and biodiversity degradation expose coast communities to the risk of being trafficked or engaging in trafficking. Many migrate to North America and Europe for better economic opportunities, facing the possibility to fall into the hands of traffickers. Others engage in trafficking and smuggling as a resource to generate income. This is the case of many fishermen in the region who have converted their boats to transport migrants on behalf of organised criminal groups<sup>49</sup>.

### 1.3. Costs and profits of human trafficking

As trafficking victims are exploited to provide inexpensive services or labour<sup>50</sup>, human traffickers perform a sort of intermediary function between those who want to profit from cheap labour and vulnerable individuals who, out of compulsion or necessity, agree to work for them. For this reason, human trafficking constitutes a large market and generates huge profits, to the extent that it is estimated to surpass

---

<sup>49</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 62, 63 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>50</sup> It should be specified that inexpensive labour does not necessarily mean that trafficked persons, once they arrive at their destination, are exploited in return for compensation, even if extremely low. Very often, low labour costs refer solely to board and lodging.

weapons and drug trafficking in terms of profitability, but also in terms of incidence and cost to human welfare<sup>51</sup>. Obviously, as in the case of drug and weapons trafficking, the possibility of profit is the primary reason for the existence of human trafficking. In fact, trafficking responds opportunistically to the necessity arising from people's desire to migrate in order to improve their living conditions on the one hand and migration restrictions on the other. Traffickers thus combine the supply of cheap labour in the country of origin and the demand for cheap labour in the country of destination<sup>52</sup>.

To explain how the human trafficking market works, one can apply the basic model of the supply and demand curve<sup>53</sup>: at a price that is too low, traffickers will not be willing to continue their activities as costs would exceed revenues; conversely, at a price that is too high, those who want to exploit trafficking victims would not be interested because they would not benefit from employing individuals whose price is equal to or higher than the price paid for regular employment<sup>54</sup>. For this reason, the price of trafficked individuals is based on a balance between the claims of traffickers and those of buyers<sup>55</sup>.

Certainly, human traffickers face different types of costs: operational, criminal, physical, etc. Focusing on operational costs, these can be divided into fixed costs, meaning those costs that do not vary depending on the quantity of trafficked persons, and variable costs. Fixed costs include, for example, the costs of establishing routes, forging travel documents for couriers, paying bribes, and remunerating the personnel involved in the various stages of trafficking. Variable costs, on the other hand, include the costs for transport, for falsifying the documentation of lured

---

<sup>51</sup> Wheaton E. M., Schauer E. J., Galli T. V., *Economics of human trafficking in Special Issue on Human Trafficking*, vol. 48, International Migration, 2010, p. 114  
<https://doi.org/10.1111/j.1468-2435.2009.00592.x>

<sup>52</sup> *Ibidem*, pp. 117-120

<sup>53</sup> In economics, supply and demand mean the buying and selling of goods or services. Buying and selling takes place in the market, where supply and demand quantities determine prices. The two concepts are used in both microeconomics and macroeconomics.

<sup>54</sup> Wheaton E. M., Schauer E. J., Galli T. V., *Economics of human trafficking in Special Issue on Human Trafficking*, vol. 48, International Migration, 2010, pp. 117-120  
<https://doi.org/10.1111/j.1468-2435.2009.00592.x>

<sup>55</sup> It should be considered that not all victims of trafficking are sold upon arrival in the country of destination. In fact, criminal organisations may have a supply chain that takes care of all steps related to trafficking, from recruitment to exploitation, without relying on external actors such as transporters or buyers. In this case, the traffickers' profit results directly from the exploitation of the trafficked victim after deducting operational costs.

victims, for paying, in some cases, compensation to the families or to the trafficked persons themselves, for providing food and accommodation to the victims until they are sold or for as long as they are exploited by the traffickers themselves<sup>56</sup>. Despite this wide range of costs, the revenue from trafficking remains substantial. In 2005, the International Labour Organisation released a study on profits from forced labour. Within its findings, it is possible to obtain an estimate of the profits from human trafficking conducted for the purpose of coercive economic exploitation. This estimate amounts to about 32 billion dollars, of which the majority (nearly 15 billion) is attributed to trafficking that has rich industrialised countries as its destination<sup>57</sup>. This estimate is based on data collected by the International Labour Organisation (ILO), which found that of the 9.8 million people subjected to forced labour by companies or individuals, almost 2.5 million are also victims of trafficking. Of these 2.5 million people, it is estimated that approximately 1.4 million are victims of sexual exploitation and 1.1 million are victims of other types of economic exploitation. This suggests that more than half of all trafficking is for the purpose of sexual exploitation<sup>58</sup>. However, it should be specified that not all victims of trafficking are subjected to forced labour. For instance, trafficking for the purpose of slavery, for forced marriage, illegal adoption or for the removal and sale of organs, activities that can be found within the definition of human trafficking in the 2000 Palermo Protocol, must be excluded from the above estimates. Taking the 1.4 million victims trafficked for forced sexual exploitation, it was later estimated that global profits from the exploitation of trafficked individuals for sexual exploitation amount to \$27.8 billion, of which almost half (\$13.3 billion) are realised from people trafficked in industrialised countries. This is followed by \$9.5 billion for Asia, \$3.2 billion for transitional economies, \$1 billion for the Middle East and North Africa and \$0.1 billion for Sub-Saharan Africa. In relation to the \$1.1 billion victims trafficked for other types of economic exploitation, on the other hand, global profits are estimated

---

<sup>56</sup> Wheaton E. M., Schauer E. J., Galli T. V., *Economics of human trafficking in Special Issue on Human Trafficking*, vol. 48, International Migration, 2010, pp. 124-130  
<https://doi.org/10.1111/j.1468-2435.2009.00592.x>

<sup>57</sup> Belser P., *Forced Labour and Human Trafficking: Estimating the Profits*, International Labour Office, 2005, pp. 16, 17

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081971.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081971.pdf)

<sup>58</sup> *Ibidem*, pp. 5-7



at \$3.8 billion, of which \$2.2 million is realised through persons trafficked in industrialised countries. Summing up, according to estimates, the profits from forced labour could amount to \$44.3 billion per year, of which \$31.6 billion is realised through the exploitation of the \$2.5 million forced labourers trafficked globally. This amounts to an average of \$13,000 per trafficked victim annually. Profits from trafficked victims are therefore greater than those from non-trafficked victims. With \$15.5 billion in profits, industrialized nations lead the way, followed by Asia (\$9.7 billion), countries with transitional economies (\$3.4 billion), Middle East and North Africa (\$1.5 billion). Sub-Saharan Africa (\$0.1 billion) and Latin America (\$1.3 billion) are the two regions with the lowest profitability<sup>59</sup>.

As much as the 2005 ILO report provides the most comprehensive and up-to-date data specific to trafficked forced labourers globally, it should be noted that in a subsequent report in 2014, the ILO estimated that the profits from forced labour (both trafficked and non-trafficked) are actually more than three times higher than estimated in the 2005 report, rising from the \$44.3 billion mentioned above to \$150 billion of profit per year, with the number of individuals subjected to forced labour being increased from 9.8 million to 21 million<sup>60</sup>. For this reason, estimating the market value of the route at around \$30 billion may be an extremely low valuation compared to reality.

#### 1.4. Providing a regional perspective

A region-by-region analysis of human trafficking can be useful to understand the flows to and from different countries and the distinctive features that characterise trafficking in different regions.

---

<sup>59</sup> Ibidem, pp. 11-18

<sup>60</sup> ILO, *PROFITS AND POVERTY: The economics of forced labour*, Geneva, 2014, pp. 12-15  
[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf)

Starting with Middle East<sup>61</sup>, North Africa<sup>62</sup> and sub-Saharan Africa<sup>63</sup>, in 2020, like in many other parts of the world, there was a drop in victim detection rates, which had been rising in recent years for both domestic and international trafficking. Particularly, in 2020, after rising for the previous four years, the total victim detection rate fell dramatically compared to 2019 (by 40% in Middle East and North Africa and by 12% in sub-Saharan Africa). In 2020, North African authorities detected more child victims (60% of the total number of victims) than adult victims and only 22% of total victims were women. However, women were found in far larger rates and made up the vast majority of the victims that were identified in other Middle Eastern countries. With regard to sub-Saharan Africa, there are still more children than adults being trafficked. In 2020, girls were the most frequently identified victims, despite the fact that many boys were also detected. Women and girls jointly account for 62% of all victims, rendering them the majority of convicted victims as in most other countries. It is to be stressed that despite the fact that sexual exploitation has historically been a key form of exploitation in other places where the majority of victims are female, forced labour is the most prevalent form of trafficking detected in sub-Saharan Africa. This is particularly true in East African nations, where 80% of all victims of exploitation in 2020 were trafficked for the purpose of forced labour. Turning to trafficking flows, the Middle East and North Africa had over 60% of the victims who were identified as foreign nationals. However, distinct flows were reported by the sub-regions. In 2020, 58% of all foreign victims in the Gulf Cooperation Council<sup>64</sup> were from East Asia, while 82% of foreign victims found in North Africa were from East Africa. Disparities were instead less pronounced in the other Middle Eastern nations, where 63% of the foreign casualties originated from within the sub-region. Concerning sub-Saharan Africa, 85% of the victims identified in the region in 2020 were classified as victims of domestic trafficking. When foreign

---

<sup>61</sup> This subregion includes Qatar, Bahrain, Oman, Saudi Arabia, United Arab Emirates, Yemen, Iraq, Israel, Lebanon, Jordan and the Syrian Arab Republic.

<sup>62</sup> This subregion includes Morocco, Algeria, Tunisia, Egypt and Sudan.

<sup>63</sup> This subregion includes the following countries: Benin, Liberia, Cabo Verde, Gambia, Central African Republic, Chad, Nigeria, Niger, Togo, Kenya, Rwanda, Uganda, Somalia, United Republic of Tanzania, Botswana, Angola, Democratic Republic of the Congo, Malawi, Eswatini, Lesotho, Mozambique, Zambia, Namibia, Zimbabwe and South Africa.

<sup>64</sup> The Gulf Cooperation Council (GCC) includes 5 countries: Oman, Bahrain, Qatar, Saudi Arabia and United Arab Emirates

victims were identified, most of them came from other sub-Saharan African countries anyway, in particular from Eastern and Southern African countries, while the comparatively limited flows from outside sub-Saharan Africa are mostly from Southern and Eastern Asia. In contrast, flows from sub-Saharan Africa are much more differentiated and extensive. Trafficked individuals from sub-Saharan Africa are found in the largest number of countries at a global level, in particular most of those are detected in North African and Middle Eastern countries and in Europe<sup>65</sup>.

The second region to be analysed is the one that includes North America<sup>66</sup>, Central America and the Caribbean<sup>67</sup> and South America<sup>68</sup>. Within these sub-regions, trends can be identified that differ substantially from one another. In North America, in contrast to most of the rest of the world, the rate of growth in the number of trafficking victims has not changed much as a result of the pandemic. In fact, in 2020, there was a 16% increase in identified victims, a similar percentage to the previous year (18.5%). What has decreased, however, is the number of convictions (-35%). On the contrary, there was a sharp decrease in the number of trafficking victims identified in the countries of Central America and the Caribbean (-36% compared to 2019) and South America (-32%), which was accompanied by a decrease in convictions (-54% in Central America and the Caribbean and -46% in South America). An interesting fact concerns child victims detected in South America, which, contrary to the general trend in the region, increased by 20% compared to the previous year. Regarding the profiles of identified victims, in North America, adult women represent the majority (61%), while girls account for 21%. Male individuals (both adult and non-adult) reach only 18%. In Central America and the Caribbean, on the other hand, female victims still represent the majority, but while adult women account for 25% of the victims, girls constitute 58%. As can be suggested from the above data, the majority of victims detected in both regions are trafficked for sexual exploitation (approximately 70%). In South America, however, despite 63% of victims being

---

<sup>65</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 76-93  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>66</sup> North America includes Canada, the United States of America and Mexico.

<sup>67</sup> Central America and the Caribbean consists of the Bahamas, Costa Rica, El Salvador, Dominican Republic, Panama, Guatemala, Jamaica, Honduras, Saint Lucia, Trinidad and Tobago, Honduras and Nicaragua.

<sup>68</sup> South America includes Argentina, Bolivia, Chile, Brazil, Colombia, Ecuador, Peru, Guyana, Paraguay and Uruguay.

female and 37% male, the most frequent purpose of trafficking is forced labour (63%). This number represents a reversal from previous years, when approximately two-thirds of the victims were trafficked for sexual exploitation. Speaking of flows, in both North America and Central America and the Caribbean, most of the individuals identified are victims of domestic trafficking. In North America, domestic trafficking accounts for 66% (75% including victims from the same sub-region) and has slightly decreased compared to previous years, leaving more room for victims from Central America and the Caribbean (from 3% in 2018 to 11% in 2020). In Central America and the Caribbean, domestic trafficking also accounts for 66 % (81 % if victims from the same sub-region are considered), but a fair share of the identified victims (15 %) are from Latin America. With regard to outgoing trafficking, instead, the flows are to North America, Latin America and South-Western Europe. With regard to South America, domestic trafficking is also predominant here (75%) and 90% of the identified victims appear to come from within South America. Outflows, on the other hand, are to South and Western Europe, North America, Central America and the Caribbean<sup>69</sup>.

The third region to be analysed comprises the East Asian<sup>70</sup>, the Pacific<sup>71</sup> and South Asian<sup>72</sup> sub-regions. In East Asia and the Pacific, the number of identified victims of trafficking decreased significantly, by 59%, of which 81% was due to a decrease in identified cross-border victims. In South Asia, on the other hand, the number of identified victims remained almost constant (-6%). At the same time, in all three sub-regions, the number of persons detected for trafficking was approximately halved compared to the previous year. As regards the profile of identified victims, women remain the largest group, although the percentage of trafficked men is increasing. At the same time, in all sub-regions, the percentage of victims trafficked for forced labour has increased significantly compared to previous years to account for approximately 55% of victims (compared to 37/38% of victims trafficked for sexual

---

<sup>69</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 94-116

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>70</sup> East Asia includes Brunei Darussalam, Cambodia, China, Japan, Indonesia, Malaysia, Thailand, the Philippines, Mongolia, Myanmar and Singapore.

<sup>71</sup> The Pacific consists of Australia, Fiji, New Zealand, Federal State of Micronesia, Palau and Solomon Islands, Vanuatu and Tonga.

<sup>72</sup> South Asia consists of Afghanistan, Bhutan, Bangladesh, India, Pakistan, Nepal and Sri Lanka

exploitation). This significant change could be due to the crisis in the fishing industry especially in East Asia and the Pacific, due to which many workers in this sector lost their job, thus becoming particularly vulnerable to trafficking for forced labour within the region. Shifting the focus to trafficking flows, 82% of the identified victims in East Asia and the Pacific are from within these two sub-regions and only 51% are victims of domestic trafficking. The remaining 15% are victims from more distant countries, mostly from South Asia. As far as outflows are concerned, these mainly head to North and South America, the Middle East and Western, Central, Southern and South-Eastern Europe. As for flows to and from South Asia, 99% of the identified victims are victims of domestic trafficking, while 100% come from within the sub-region. Regarding outflows, an increasing number of cases are reported in North America, Western and Southern Europe, East Asia and the Pacific<sup>73</sup>.

To conclude this regional analysis, the last region to be analysed comprises three sub-regions: Central and South-Eastern Europe<sup>74</sup>, Eastern Europe and Central Asia<sup>75</sup> and Western and Southern Europe<sup>76</sup>. In all the above-mentioned sub-regions, there was an increase in the number of identified trafficking victims. However, while in Central and South-Eastern Europe and Eastern Europe and Central Asia the growth accelerated compared to the previous year (the increase in Central and South-Eastern Europe went from 4% in 2019 to 13% in 2020, while in Eastern Europe and Central Asia it went from -14% to 10%), in Western and Southern Europe the rise slowed down from 43% in 2019 to 6%. In relation to convictions for human trafficking, these increased (+14%) only in Central and South-Eastern Europe, while in the other two sub-regions, there was a decline that characterised much of the rest of the world, with Western and Southern Europe having almost half fewer convicts than in 2019. Regarding the profiles of identified victims, in Central and South-Eastern Europe, in 2020, female victims (both adults and children) accounted for 75

---

<sup>73</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 117-132

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>74</sup> This subregion consists of Czechia, Estonia, Lithuania, Hungary, Latvia, Slovakia, Poland, Albania, Montenegro, Bosnia and Herzegovina, Croatia, Bulgaria, North Macedonia, Slovenia, Romania and Serbia.

<sup>75</sup> This subregion includes Azerbaijan, Belarus, Armenia, Georgia, the Republic of Moldova, Ukraine and the Russian Federation (Eastern Europe) and Kazakhstan, Tajikistan, Kyrgyzstan and Uzbekistan (Central Asia).

<sup>76</sup> This subregion consists of Andorra, Denmark, Finland, Iceland, Norway, Sweden, Austria, Belgium, France, the Netherlands, Germany, Greece, Ireland, Italy, Malta, Portugal, Spain, Switzerland, Liechtenstein, Luxembourg, the United Kingdom of Great Britain and Northern Ireland, Cyprus and Türkiye.

per cent of total victims and 63 per cent of them were trafficked for the purpose of sexual exploitation, which is therefore the most common form of exploitation in this sub-region, as has been the case for many years. Despite this, the detection of trafficking for forced labour appears to be on the rise, and the cases revealed that victims of this type of trafficking are mainly employed in the agricultural sector. In relation to the other forms of exploitation, trafficking for forced crime accounted for approximately 4 % of the total number of victims detected, trafficking for forced begging for 2.5 % and trafficking for illegal adoption accounted for 2.5 % of the victims detected. Regarding Eastern Europe and Central Asia, the profiles of the identified victims vary widely: in Eastern Europe, the majority of victims are male and 87% of them were exploited for forced labour (mostly in the construction sector), whereas in Central Asia, the majority of victims are female and 76% were trafficked for the purpose of sexual exploitation. Turning to Western and Southern Europe, for the first time in 2020, more male than female victims were identified. Interesting to note is the percentage of children (both male and female) trafficked, reaching 41% of the total number of identified victims, a substantial increase compared to 2019, where they accounted for 32% of victims. Another significant change is the 40% decrease in the number of trafficking cases identified for sexual exploitation, which contributes significantly to the substantial slowdown in the number of total victims identified. In particular, in Western and Southern Europe, 26% of the victims were found to be trafficked for the purpose of forced labour (mostly in domestic work and in the agriculture and catering sectors), 29% for the purpose of sexual exploitation and as many as 45% for other forms of exploitation, including mixed exploitation, for drug trafficking, forced crime, etc. Forced crime in particular could justify such a high number of trafficked children, as they have a sufficiently high level of capacity to carry out simple criminal activities, and at the same time are easily manipulated and less likely to draw suspicion to themselves. Shifting the focus to trafficking flows, in central and south-eastern Europe, approximately 80 per cent of the identified victims were domestically trafficked, a sharp increase from 2018, when this percentage was 50 per cent. The remaining identified victims generally came from the rest of Europe and Asia, with 10 per cent from East Asia. In relation to outward flows, a large proportion of victims from this sub-region were identified in Central and South-

Eastern Europe, were female and trafficked for sexual exploitation. As for Eastern Europe and Central Asia, 100 per cent of the identified victims come from within this sub-region, of whom 95 per cent are victims of domestic trafficking. For outflows, not many victims left the sub-region, of whom most were trafficked to Central Europe and the Middle East. In Western and Southern Europe, although there was an increase in domestic trafficking in 2020 compared to previous years, domestic trafficking accounts for only 35 per cent, while cross-border trafficking accounts for 65%. The provenance of trafficked victims identified in this region is therefore manifold: in descending order, 17 % of victims come from south-eastern Europe, 9 % from West Africa, 8 % from East Asia, 7 % from South Asia, 5 % from both North Africa and East Africa, 3 % from the Middle East and 1 % from each of Southern Africa, Eastern Europe, South America and Central America and the Caribbean<sup>77</sup>.

## 2. Definition of “Human Trafficking”

Following the definition given in Article 3 of the so-called Palermo Protocol<sup>78</sup>, human trafficking “[...] 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”.

From this definition, it is possible to understand how trafficking in human beings can consist of a multi-stage procedure (“recruitment, transportation, transfer, harbouring or

---

<sup>77</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 133-164  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>78</sup> The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, also known as the Palermo Protocol, was adopted on the 15<sup>th</sup> of November 2000 in Palermo, Italy and is the first global legally binding instrument addressing trafficking in persons. The Protocol entered into force on the 25<sup>th</sup> of December 2003 and counts 181 Parties.

*receipt [...]*"<sup>79</sup>), each of which has as its objective the exploitation (sexual exploitation, forced labour, slavery, etc.) of trafficked persons against their will or through a flawed will resulting from an abuse of power, a position of vulnerability or economic necessity. Although through this definition an attempt has been made to determine the meaning of trafficking, the latter is actually an extremely variable and complex reality.

Human trafficking is considered one of the leading forms of organized crime, in violation of human rights and human dignity. Also regarded as a modern form of slavery, trafficking in human being is perceived as in contrast with democratic societies<sup>80</sup>.

As previously seen, according to UNODC Global Report on Trafficking in Persons 2022, the number of detected victims of human trafficking reported by Member States between 2017 and 2020 is almost 190 thousand. This shows how wide-ranging the problem of trafficking actually can be.

Although human trafficking has been criminalized in numerous states and addressed by international law, its transnational nature and continuous evolutions, make it challenging to prosecute. As regards transnational nature, the lack of adequate national legislation, together with the absence of international cooperation is an advantage for traffickers. Simultaneously, the processes involved in human trafficking are extremely mutable, while law-making processes are generally slower and less adaptable. As an example, it is worth mentioning the effects of digital technologies in the various stages of trafficking and the impact of climate change as a factor that may favour the latter. Although these phenomena, as shown in UNODC report, are already an integral feature of trafficking, they have yet to be extensively addressed by both international and national law.

Additionally, despite governments' focus on the issue of trafficking, little has been done to address the violations of human rights that are experienced by those who are trafficked. When traffickers are dispatched to prison, they are frequently accused of crimes connected to immigration breaches rather than human rights offenses, and victims receive the minimum in the way of support or justice. When they come into touch with law enforcement, the majority of trafficked individuals are still classified as

---

<sup>79</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, New York, 15<sup>th</sup> December 2000

<sup>80</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, p. 1



illegal migrants and are swiftly deported without any inquiry into the circumstances of their travel or employment in the destination country<sup>81</sup>.

For these reasons, human trafficking is still a huge problem, with social and economic consequences, both for victims who face long-term damage and for the totality of the society involved, intentionally or unintentionally, in the process of trafficking. Indeed, human trafficking results in a loss of resources for all but the traffickers who profit greatly from this crime. Victims of trafficking, whatever the type of exploitation, suffer violence and coercion: physical violence, sexual violence and threats. These acts result in damage to physical health and mental health, which entails costs to society: extra public services including law enforcement, specialised services, health and social protection services; losses in economic production; coordination of law enforcement and anti-trafficking operations<sup>82</sup>. According to the Study on the Economic, Social and Human Costs of Trafficking in Human Beings within the EU (2020), in 2016 the cost of trafficking in human beings is estimated to be in total, for EU-28, about 3,7 billion euros.

Despite for the first time in twenty years<sup>83</sup>, in 2020, the number of victims of trafficking detected globally dropped by 11% as a consequence of mobility restrictions due to COVID-19, it has actually been assumed that this reduction has been caused by the reduces capacity of detecting such crime. As a matter of facts, it seems that lockdown restrictive measures have driver exploitation to take place in more concealed locations, constraining law enforcement capacities to commit more effort to identify the crime<sup>84</sup>. Moreover, looking at the data provided by EUROSTAT, it can be deduced that the number of victims of trafficking is resuming its upward movement. As it is shown, in the European Union, in 2021, when lockdown restrictive measures had been eased, the number of victims detected registered an increase of 10%, with about 7 thousand victims in 2021, compared to 6,5 thousand in 2020<sup>85</sup>.

---

<sup>81</sup> Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007, p. 7

<sup>82</sup> European Commission, *Study on the Economic, Social and Human Costs of Trafficking in Human Beings within the EU*, Brussels, 2020, pp. 17-28  
<https://op.europa.eu/en/publication-detail/-/publication/373138c5-0ea4-11eb-bc07-01aa75ed71a1/language-en>

<sup>83</sup> This number refers to the interval from the time of the first data collection, later published in UNODC Global Report 2009, to 2023.

<sup>84</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, p. III  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>85</sup> EUROSTAT, *Victims of trafficking of human beings up 10% in 2021*, Luxemburg, 2023

The definition of human trafficking is not unanimous internationally. It is sometimes possible to confuse trafficking with smuggling or illegal migration and it is not simple to draw clear borders between trafficking and prostitution and between forced and voluntary prostitution<sup>86</sup>.

It is important to understand that trafficking is not only about sexual exploitation, but also about other forms of exploitation, including forced labour. It is therefore essential to comprehend that not all people forced into prostitution are victims of human trafficking, just as not all illegal migrants are. Even more important is to be aware of the difference between trafficking in persons and human smuggling. With regard to trafficking, its victims generally manifest their will at the time of recruitment, without being aware that they will be trafficked or what is ahead of them. Conversely, a smuggling victim cooperates with the smugglers and is aware of what is happening. Moreover, the latter is free to leave in case they do not want to continue their journey. Another difference is that, in the case of smuggling, there is always the illegal crossing of international borders, whereas trafficking can either take place within national borders or not involve any kind of transport or displacement<sup>87</sup>. Furthermore, there is also a dissimilarity in terms of the origin of the profit. In fact, whereas in trafficking, the income comes mainly from the management and exploitation of the victims, in smuggling the revenue generally comes from the smuggled persons themselves who pay to be transported illegally across borders.

Despite differences, it is worth specifying that smuggling can often escalate into trafficking if the victim is compelled to perform work or commercial sex acts or is not permitted to leave<sup>88</sup>.

This statement was made in order to explain how several factors, including the absence of a unanimous interpretation of the concept of trafficking in human being and more or less stringent national controls over borders, could lead to misinterpretation of data. In addition, more victims reported may indicate an increase in the number of trafficked

---

<https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230208-2>

<sup>86</sup> Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007, p. 13

<sup>87</sup> Michael B. Gerrard, *Climate Change and Human Trafficking After the Paris Agreement*, University of Miami Law Review, 2018, pp. 365, 366

<sup>88</sup> *Ibidem*, p. 366

victims, but it may also indicate a greater aptitude for detecting them. The same concept can be also applied in the opposite direction<sup>89</sup>.

### 3. Human trafficking as a gender issue

Human trafficking disproportionately affects women. This can be understood both in terms of numbers, as women represent the largest number of identified trafficking victims, and in terms of the impact on the victim. In fact, women are often more susceptible to certain types of trafficking, such as trafficking for sexual exploitation, forced domestic labour, forced marriage, which have a greater impact on both physical and mental health as they can result in gender-related problems such as unwanted pregnancies, forced abortions, sexually transmitted diseases, etc. Moreover, not only women who are targeted for these types of exploitation may be abused. Very often, abuse also takes place during the other stages of trafficking, such as transportation or harbouring, and, although not exclusively aimed at women, the latter are the most frequent victims. It is also necessary to emphasise that women are also more prone to gender discrimination and stereotypes that benefit the activation of trafficking and re-trafficking mechanisms. Human trafficking, in fact, is rooted in a profound asymmetry of power positions, which often see women and girls as victims and men as oppressors<sup>90</sup>.

#### 3.1. Some data on victims of trafficking

In terms of numbers, trafficking can be considered as a phenomenon that affects women the most, as female victims account for approximately 60% of the total number of trafficking victims identified in 2020. It should be noted that compared to 2019, there was a decrease of 11% of female victims identified. This could be due to the fact that most female victims are trafficked for the purpose of sexual exploitation, which, as already explained, has slowed down or simply moved to more secluded locations due to pandemic restrictions, making it more difficult to identify victims. The general decrease in identified victims, in fact, falls entirely on the female victims,

---

<sup>89</sup> Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007, p. 13

<sup>90</sup> Basu S., Kirby P. and Shepherd L. J., *New Directions in Women, Peace and Security*, Bristol University Press, 2020, pp. 193-196  
<https://doi.org/10.2307/j.ctv12sdx3t>

while the male victims have recorded a 3% increase in the total. Despite this, women and girls still remain more likely to be trafficked than men and boys.

In terms of victim impact, although trafficking is an extremely negative experience for victims, regardless of gender, according to a UNODC study, traffickers tend to have more violent attitudes towards women and children, especially girls. Indeed, female victims are three times more likely than male victims to be subjected to physical violence, including sexual violence, during the various steps of trafficking. In addition, girls in particular are more likely to be subjected to physical violence, who in turn are 1.5 times more likely to be subjected to violence compared to adult women. It should be emphasised that these data do not only concern trafficking for sexual exploitation, but all types of trafficking, regardless of their purpose<sup>91</sup>.

Despite the above data, it is worth noting that men are under-reported compared to women. In fact, according to a study carried out in the city of Madrid, if for every male victim identified, 9.2 men are not, for every female victim identified, “only” 2.5 are not. This happens because due to stereotypes and gender norms there is a misperception of the vulnerability of men who are hardly seen as victims of other individuals (as in the case of trafficking). On the contrary, they are more often identified as victims of unfavourable circumstances that have led them into a difficult situation. Similarly, gender stereotypes do not only affect the people in charge of identifying victims, but also the victims themselves. Despite the fact that, as already argued, physical violence, as well as psychological violence, belongs to all types of trafficking regardless of the purpose, and occurs in all stages of trafficking, male victims seem to struggle to discuss experiences of abuse as well as to find it difficult to see themselves as victims themselves<sup>92</sup>.

As mentioned before, human trafficking is rooted in a profound asymmetry of power positions, which often see women as victims of men. Even though men are not always responsible and women are not always victims, compared to victims’ data, statistics are reversed when focusing on traffickers. Men represent the majority of convicted traffickers globally, reaching 58% in 2020. Women, on the other hand,

---

<sup>91</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 25-27  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>92</sup> *Ibidem*, pp. 28-32

account for 40%, while minors make up just 2% of traffickers. The proportion of traffickers by gender differs particularly by region. Indeed, whereas in Central and Western Europe, the Americas, Africa and the Middle East, the percentage of male traffickers is between 65% and 75% and that of female traffickers between 25% and 35%; in Asia and neighbouring areas, the situation is reversed. In fact, in South Asia, East Asia and the Pacific, the percentage of male traffickers is 55% and that of female traffickers 43%. This is a much less marked difference than in previous regions. Even more significant is the situation in Central Asia and Eastern Europe: here, the percentage of male traffickers is only 19%, while that of female traffickers reaches 81%. From these data, it can be understood that in the countries of origin of trafficking, more women are convicted, whereas in the destination countries, men are convicted more. This can be explained if one considers that very often men and women carry out different tasks in the various stages of trafficking: for instance, women are more often reserved for the recruitment phase, as victims tend to trust female individuals more than male ones<sup>93</sup>. It should also be noted that women traffickers tend to carry out activities with a high risk of detection (such as recruitment or collecting money in cases of sexual exploitation) and are more likely to be convicted than men. In fact, while 72% of individuals investigated for human trafficking are male and 28% female, when considering individuals convicted of trafficking, 59% are male and 41% female<sup>94</sup>. In addition, according to the cases analysed by UNODC, women are more commonly involved in trafficking by traffickers operating in pairs, rather than by criminal organisations, and the most commonly reported profile is that of women exploited by their partners to carry out trafficking-related activities most at risk of detection<sup>95</sup>.

### 3.2. Forms of exploitation

The forms of exploitation for which human trafficking is carried out also contributes to understanding how women are disproportionately affected.

---

<sup>93</sup> Ibidem, pp. 58-60

<sup>94</sup> Ibidem, pp. XIV, XV

<sup>95</sup> Ibidem, pp. 58-60

Trafficking in persons for forced labour has generally increased over the past 15 years, reaching 39% of identified victims in 2020<sup>96</sup>. As mentioned before, these figures could be the result of the restrictive measures implemented during the pandemic that forced female victims of sexual exploitation to move to more secluded and therefore more difficult to identify locations. In fact, if we look at previous data, in the previous UNODC report, we can see that in 2018, 50% of identified trafficked victims were victims of sexual exploitation and 38% were victims of forced labour<sup>97</sup>. Another factor to consider is the increase in mixed forms of exploitation that have been increasingly identified, especially since 2018. Mixed forms of exploitation are in fact considered different from sexual exploitation or forced labour.

Returning to exploitation for forced labour, there are several sectors in which the latter is employed, but according to the reported cases, the industry that benefits most from exploitation for forced labour is the food supply industry, particularly agriculture (29%) and fishing (28%). Other sectors detected, although less frequently, are domestic work (10%), cleaning services (8%), street vending (7%), construction (6%), entertainment, mining, catering, clothing and nursing (together they reach 11%).

With regard to trafficking for sexual exploitation, as already seen, it concerns 39% of trafficking victims, which is clearly decreasing, as are the number of female victims, probably due to the fact that sexually exploited trafficking victims are mostly women and girls and due to pandemic restrictions have become more difficult to identify. In fact, among the identified victims of sex trafficking, 64% are adult women, while 27% are girls, making a total of 91% female victims against 9% male victims. According to case summaries gathered and examined by UNODC, victims of human trafficking for sexual exploitation can be found both indoors and outdoors, in public and private spaces, in nightclubs and private residences, and on street corners and in brothels. Specifically, 63% of the victims documented in these court cases were exploited outside or in public settings like bars and clubs. The other 37% of the victims were exploited in areas like apartments or hotels that are normally hidden from view.

---

<sup>96</sup> Ibidem, p. 23

<sup>97</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, p. 11

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

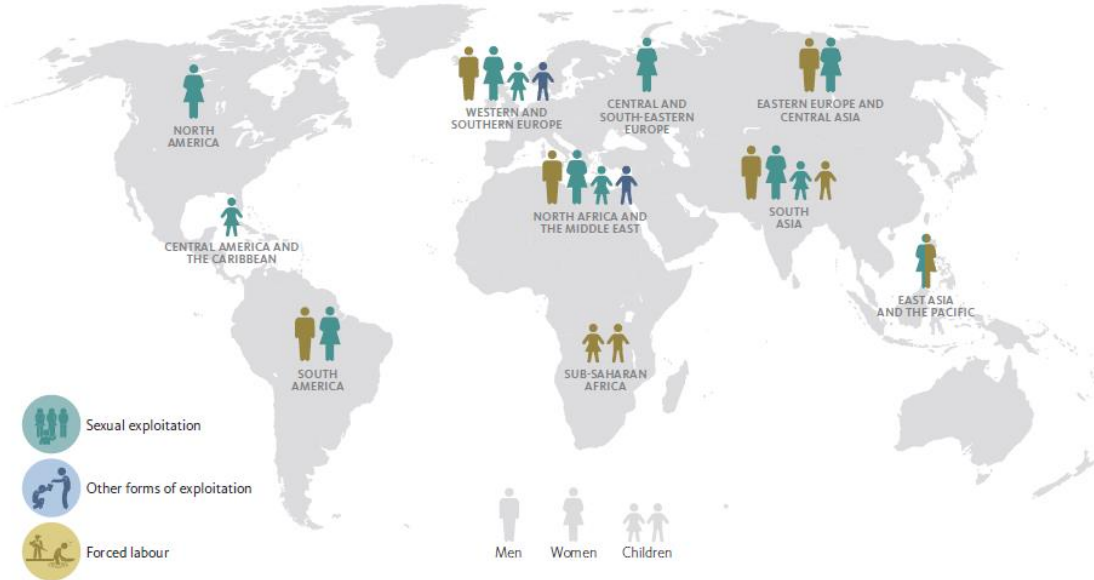
However, it is undoubtedly harder to identify human trafficking for sexual exploitation in these areas, and victims who are exploited behind closed doors are likely to be more frequently underreported than those who are exploited in public. Outside of trafficking for the purpose of forced labour and sexual exploitation, other victims of trafficking have been used for mixed forms of exploitation, in particular sexual exploitation and forced labour. As already mentioned, mixed forms of exploitation increased particularly after 2018. While in that year, in fact, 2% of the victims were employed in mixed forms of sexual exploitation and forced labour, in 2020, this percentage rose to 10%. This type of exploitation often sees a majority of female victims, as in the United States where they account for 82% of victims of trafficking for mixed sexual exploitation and forced labour. Very often this type sees women trafficked as victims to be exploited in domestic work, catering, hospitality or in the agricultural sector, then forced to have relations with the men inside the homes they cared for, with clients in bars and restaurants or with employers or their clients after working hours in the fields. In relation to the other types of mixed forms of exploitation, the profile of the victims changes radically according to the type of exploitation associated. For instance, in the mixed form of exploitation of forced labour and organised crime, it is men who are more likely to be employed, whereas in the forms of exploitation combining sexual exploitation and organised crime, it is children, mostly girls, who are affected.

As for victims of trafficking for forced crime, they are mostly boys (68%) and adult men (24%) and are also increasing. According to the reported cases, trafficking for forced crime includes exploitation for drug trafficking, pickpocketing, shoplifting, other thefts, for examples of cars, jewellery, petrol and various types of fraud.

Exploitative begging is another form of exploitation and account for 1% of total victims. According to case summaries gathered by UNODC since 2012, victims compelled to beg may be physically challenged persons, kids who have been exploited by their own parents, orphaned youngsters who are homeless and without parental care. Representing another 1%, are victims trafficked for forced marriage. The latter may take place either for the purpose of obtaining the right to enter and move to and from the victim's country of nationality (a typology mainly recorded in

the European Union), or as a means of exchange that the victim's family or the trafficker may offer in exchange for money<sup>98</sup>.

Tab. 5: Main detected profiles and forms of exploitation, by region, 2020 (or most recent)



UNODC, *Global Report on trafficking in persons*, New York, 2022

### 3.3. Causes of human trafficking

Like any tradable commodity, trafficking in human beings is defined by supply and demand. The process of supply and demand in trafficking is stimulated by the disparity of economic development in countries around the world. On the one hand, we find poor or developing countries that are provided with vast numbers of unskilled and low-cost labourers looking for work; on the other hand, there are industrialised or developing countries that are looking for this same low-cost labour to be included in the various production industries as well as in the entertainment industry (such as, for example, the sex industry).

Globalisation is an important factor within the dynamics of trafficking. Indeed, on the one hand it helps to spread, also through new technologies, the image of the West as a place full of opportunities, necessary to be reached to make one's fortune and have a better life; on the other hand, it has made it easier to communicate and move

<sup>98</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 33-39  
[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)



from one country to another. Most people who want to migrate to a richer country are in fact looking for a way to improve their living conditions and, in some cases, it is purely a matter of survival. There are indeed several elements that can lead a person to want to migrate and there are several mechanisms that can lead them to become involved in trafficking. In fact, since generally in this type of migration, those who leave are unfamiliar with the language, customs, laws and practices of the destination country, the risks of being involved in trafficking are many. Those who become involved, due to their social isolation and complete dependence on fraudulent employers and middlemen, are particularly vulnerable to violence, drug abuse and being subjected to psychological and physical injuries, all forms of control often used to limit any idea of asking for help. The lack of education and upbringing makes trafficking victims easy to manipulate and to convince that trafficking is the only way to get out and make a fortune. Getting rich, however, is not common once one has become a victim of trafficking: the industry of trafficking women for sexual services, for example, is set up in such a way as to ensure maximum profit with minimum expenses, so women run the risk of not being able to earn the money they expected. The victims' prospects of earning enough money for themselves or sending it as remittance are reduced by the large debts they have to repay to traffickers in order to secure employment<sup>99</sup>.

Regarding the reasons that may lead trafficking victims to become involved, it is necessary to consider that human trafficking is founded on a multitude of interrelated variables, all of which work together to foster an environment that is conducive to the actions of traffickers. Poverty is one of the primary motivators for human trafficking. Extremely poor locations might induce people and families to be more enticed with false promises of better living conditions or well-paying jobs, making them accessible targets for dishonest traffickers. Also, the access to high-quality education is a major contributing element. Without the empowerment that comes from education and knowledge, people might not be able to recognize possible trafficker traps or gain access to better, safer options, which puts them at risk of being victims of these criminals. This phenomenon also heavily involves

---

<sup>99</sup> Vlachová M., *Trafficking in Humans: The Slavery of Our Age*, Connections, vol. 4, 2005, pp. 7-9  
<http://www.jstor.org/stable/26323192>

political instability and inadequate legislation. Human traffickers can ruthlessly take advantage of the power vacuums and absence of law enforcement that emerge from weak or non-existent rule of law and unstable or corrupt administrations. Finally, in a similar vein, as previously seen, places impacted by armed conflict or natural disasters, become into susceptible hubs for this illegal activity. As traffickers opportunistically take advantage of the conditions of vulnerability, chaos, displacement and social disintegration caused by wars and civil unrest, these often result in an increase in human trafficking. Similarly, human traffickers can easily take advantage of the disruption, desperation and infrastructure damage that follows earthquakes, floods or other natural disasters<sup>100</sup>.

Speaking of trafficking in women, in addition to these driving motives for victims to rely on traffickers and for traffickers to take advantage of victims, from the data it is possible to define some reasons that drive typically female individuals to migrate, thus subjecting themselves to the risk of being trafficked.

The lives of women have been impacted by globalization in two ways. Some have benefited from it by gaining access to previously unattainable opportunities, roles, and alternative spaces; nevertheless, it has also given rise to new forms of conservatism, as assertions of “authentic culture” limit women to specific traditional roles. Opportunities for women migrating for economic reasons have increased, albeit frequently in gender-specific and frequently low-paid roles. This is due to the disproportionate impact of economic reorganization on women as well as the increased demand in host countries for domestic workers, sex workers, caregivers or semi-skilled jobs requiring “nimble fingers” and the availability to work informally or for low wages. These new economic opportunities can create favourable conditions both for a change in the woman's own life and for enabling her to send remittances to her family in need. Among the identified female victims of trafficking, a large percentage claim to have left in search of a job that would allow them to help a sick relative who needed care that was too expensive for the family to afford.

In addition to the mere search for new economic opportunities for oneself or to help one's family, migration can also be understood as resistance to those oppressive (and

---

<sup>100</sup> UNODC, *Toolkit to Combat Trafficking in Persons*, 2008, pp. 423-426  
[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

in some cases violent) environments typical of those cultures that see women confined to the traditional role of wife and mother and force them to flee in search of greater independence and freedom. The idea of the naive victim, which is imagined especially in the case of female trafficking victims, is not always true. In fact, there are cases in which the victims claimed that they knew and were aware of what was awaiting them, but that in their opinion it was the only way they could escape their country of origin, in the hope that subsequently they would be able to escape the trafficking mechanism. In fact, their decision turned out to be a reasoned choice, the result of a tortuous negotiation between family responsibilities and the desire to escape violence or an overly oppressive family environment, or more simply between family responsibilities and the hope of making a fortune elsewhere<sup>101</sup>.

#### 3.4. The risk of re-trafficking

The term re-trafficking refers to a circumstance in which a previously trafficked individual is re-trafficked under different circumstances. This second trafficking experience generally occurs within two years of the first and often the victim is re-trafficked for the same purpose as the previous time. When the type of exploitation differs from the first experience to the second, this change is often due to a difference in the victim's age between the first time they were trafficked and the second time. According to data collected by IOM in a study on re-trafficking, the majority of re-trafficked victims are very young, under 25 years old and are mainly women<sup>102</sup>.

Concerning the causes that can lead to re-trafficking, the economic or psycho-physical vulnerability of the victim are the main causes, but often the collusion of law enforcement agencies or the failure to sever relationships with traffickers also play a role. First of all, once out of a trafficking situation, victims may be re-trafficked if they are put in a position to be easily traced by their traffickers. The victims themselves may also decide to return to them voluntarily, as in the case of severe economic dependency, but also of addiction to substances such as alcohol and/or drugs, which

---

<sup>101</sup> IOM, *The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database*, 2010, p. 11

<https://publications.iom.int/books/causes-and-consequences-re-trafficking-evidence-iom-human-trafficking-database>

<sup>102</sup> Ibidem, pp. 11-18, 25

traffickers very often use to control their victims. In other cases, it is possible that the same law enforcement agencies to whom the victims ask for help are colluded and decide, therefore, to return the victim into the hands of the traffickers or to provide them with information that will enable them to trace the victim and return to trafficking.

In addition, victims are usually sent back to their country of origin, as they are illegal immigrants within the country in which they were identified. However, it is often the case that they are classified as illegal migrants rather than as victims of trafficking, thus not guaranteeing the necessary support for their return to their country of origin and the process of reintegration into society. Indeed, repatriation is an extremely delicate procedure, especially if victims are not supported by an organisation or other aid mechanisms they can rely on. The risk assessment of repatriation, in fact, is extremely important, as it helps to establish a safer method of repatriation that protects the victim. Indeed, it is possible that after managing to escape trafficking, the victim may be tracked down by traffickers and forced to return to them through threats against her or his family or through threats concerning money still owed. In addition, appropriate assistance to the victim may inform her/him of the possibility to make use of the help available in the country of origin for victims of human trafficking, such as the option of temporary residence<sup>103</sup>.

However, the dangers of re-trafficking do not only manifest themselves in the return phase. If there has been a good work and housing accompaniment in the reintegration, social rootedness in the territory is an effective antidote to the risk of re-trafficking, but the disengagement with the host realities towards full autonomy is a very delicate junction of life, where new risks may settle. Indeed, there are several factors that may lead a returned victim to be re-trafficked. For instance, the victim may fail to find economic stability and a job due to the lack of job opportunities in the country of origin, which may have prompted her to migrate the first time. The difficulty in finding a job may also be the consequence of a lack of training or education, possibly due to having been trafficked at a young age without having had the opportunity to study or simply living in a more traditionalist

---

<sup>103</sup> Ibidem, pp. 43-49

family/society which, more likely in the case of female victims, prevents them from studying<sup>104</sup>.

Furthermore, it must be taken into consideration that having already been trafficked has a not insignificant influence on the possibility of being trafficked again once back in the country of origin. For instance, victims may have incurred debts with family or members of society in the country of origin in order to be able to bear the costs of their first trafficking experience and, being unable to settle these debts, end up being trafficked again. Another possibility is that it was the victim's own family/society that pushed her into the hands of the traffickers (almost certainly for money). In this case, once back in the country of origin, the trafficked person will plausibly be returned to the traffickers. Another case in which a previous trafficking experience can facilitate re-trafficking is when the victim, once back in her/his country of origin, is rejected as an individual belonging to the community or family because having been part of trafficking creates a stigma on the victim that makes it more difficult to reintegrate and obtain the support of her/his family/community. This circumstance manifests itself especially when the victim has been trafficked for the purpose of sexual exploitation as in the collective imagination sexual exploitation is often considered more dishonourable than exploitation for forced labour or other types of exploitation.

Finally, those who have been trafficked in the past may risk being trafficked again if they decide to migrate a second time for various reasons including those mentioned above (for example lack of work, economic difficulties, family rejection, etc.). The IOM study shows that in some cases, victims even decided to turn to the same traffickers they had fallen victim to the first time because of the absence of safe and authorised migration routes to leave their country of origin, forcing them to use illegal networks<sup>105</sup>.

To conclude, re-trafficking does not only affect victims who migrate from one country to another, but also those who migrate internally and affects both women and men. However, it should be considered that, especially following repatriation, the causes that lead victims to be re-trafficked affect women the most. In fact, as already

---

<sup>104</sup> Ibidem, pp. 28-29

<sup>105</sup> Ibidem, pp. 31-40

mentioned, the stigma that is created mainly affects victims of trafficking for sexual exploitation, most of whom are women and girls. This stigma will make it more difficult for the victim to reintegrate, for instance it will make it more difficult to get support from the family, find work, cultivate a social life, seeking a partner, etc. This makes the victim even more vulnerable and even more prone to being re-trafficked.

## **Chapter II: TODAY'S ANTI-TRAFFICKING LAW FROM AN INTERNATIONAL AND REGIONAL PERSPECTIVE**

### *SECTION I - International law framework against human trafficking*

#### 1. Convention on the Elimination of all form of Discrimination Against Women (CEDAW)

As argued above, human trafficking is a complex phenomenon for international law to confront. This is due to its often-transnational nature and its continuous evolution<sup>106</sup>. Nevertheless, in addition to the domestic law of individual countries, there are a number of international and regional instruments that are aimed at preventing and combating human trafficking.

In this chapter, today's anti-trafficking legislation will be analysed. In particular, the first part will present the international anti-trafficking legal framework, while the second part will discuss the regional anti-trafficking legal framework, with a particular focus on Europe. For what concern the international anti-trafficking legal framework, the legal instruments that will be analysed are the Convention on the Elimination of all form of Discrimination Against Women (CEDAW) with General recommendations no. 37 and no. 38, the Convention on the Rights of the Child (CRC) and United Nations Convention against Transnational Organized Crime with its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the first anti-trafficking instrument to be analysed. The Convention was adopted by the UN General Assembly in 1979 with 130 votes in favour, no dissenting votes and 10 abstentions. During the Second World Conference on Women held in Copenhagen in 1980, 64 states signed the CEDAW, and two states submitted their instruments of ratification. After the 20th state ratified on the 3<sup>rd</sup> of September 1981, the Convention entered into force, more rapidly than any previous human rights convention and counts, currently, 189 States Parties<sup>107</sup>.

---

<sup>106</sup> Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007, p. 7

<sup>107</sup> United Nation, *Convention on the Elimination of All Forms of Discrimination against Women*, New York, 18 December 1979

The purpose of the Convention is to recognise discrimination in the economic, political, cultural, social and all other fields, which occurs against women. The CEDAW indicates the key areas in which states parties are encouraged to implement appropriate measures, including legislation, to ensure women's full exercise and enjoyment of their rights and fundamental freedoms, with the ultimate aim of ensuring equity between women and men in all areas. In the preamble, the Convention acknowledges the existence of other international instruments aimed at promoting equal rights between men and women, but also recognises the fact that these have not been sufficient and that discrimination against women continues to exist extensively. For this reason, states parties undertake to promote equality between men and women in a number of areas, ensuring the enjoyment of a number of rights, such as citizenship, education and political participation, already enjoyed by men, thus laying the foundations for an equal society in which women participate in all areas on an equal footing with men<sup>108</sup>.

The CEDAW is also characterised by a monitoring mechanism introduced through the Optional Protocol of 1999<sup>109</sup>. Within the Convention, Article 21 provides for the establishment of a committee with the task of drawing up an annual report with suggestions and recommendations. However, through the Optional Protocol, the Committee is given the authority to formulate recommendations and opinions and to carry out investigations against States Parties to the Protocol, following communications received from individuals or groups of individuals belonging to States Parties, in which violations of rights enshrined in the CEDAW are made explicit. Following any investigation or before such an investigation takes place, the State Party shall communicate to the Committee the measures that will be taken to put an end to the alleged violations<sup>110</sup>.

Despite the fact that CEDAW does not give a definition of trafficking in human beings and does not provide specific measures or a legal pathway to be implemented in cases

---

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

<sup>108</sup> Ibidem,

<sup>109</sup> The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was adopted on the 6<sup>th</sup> of October 1999 and entered into force on the 22<sup>nd</sup> of December 2000. It currently counts 115 States Parties (several less than CEDAW).

<sup>110</sup> United Nations, *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, New York, 6 October 1999

[https://www.ohchr.org/sites/default/files/2021-08/OP\\_CEDAW\\_en.pdf](https://www.ohchr.org/sites/default/files/2021-08/OP_CEDAW_en.pdf)



of trafficking, in Article 6 it is possible to read “*States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women*”.<sup>111</sup> Through this article, the Convention recognises trafficking and the exploitation of prostitution as potential causes that undermine the goals set by CEDAW and recognises the need to take appropriate measures to suppress them. Although there is no legally binding policy to prevent trafficking in women, this was the first time trafficking was addressed in an international agreement that addresses violence and discrimination against women. Furthermore, the CEDAW draws attention to the underlying causes of trafficking that have been neglected by former international legal instruments by condemning the injustices to which women are subjected in all societies<sup>112</sup>.

In support of Article 6 of the Convention, General Recommendation No. 19 of 1992 recognises some of the constituent causes of trafficking in women, namely poverty, unemployment, war, armed conflict and occupation of territory. In addition, new forms of sexual exploitation are identified, such as recruitment for domestic work in a developing country, sex tourism and forced marriages, combined between women from poor countries and foreign nationals. Within the General Recommendation, it is recognised that such practices are incompatible with the dignity and equal enjoyment of women's rights, as well as increasing the risk of violence and abuse against women. For this reason, the General Recommendation acknowledge the need for specific protective and punitive measures<sup>113</sup>.

### 1.1. General Recommendation No. 37 and General Recommendation No. 38

General Recommendations No. 37 and No. 38 are part of the recommendations published by the Committee on the Elimination of Discrimination against Women

---

<sup>111</sup> United Nation, *Convention on the Elimination of All Forms of Discrimination against Women*, New York, 18 December 1979, Article 6

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

<sup>112</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 64, 65

<sup>113</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19 on violence against Women*, New York, 1992, Article 6

<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

and within them there are important references recognising the role played by digitalisation and climate change in facilitating women's trafficking.

General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate was published in 2018 and at its core, it recognises the role of climate change in exacerbating both the risk and impact of disasters on a global level, increasing the frequency and gravity of weather and climate risks. In addition, the General Recommendation acknowledges that women and girls bear a disproportionate amount of the risks and burdens associated with climate change and disasters compared to men. In fact, times of crises intensify discriminatory practices and pre-existing gender disparities. Also, gender-based violence against women and girls is more likely to occur during and after catastrophes. Women and girls are frequently subjected to sexual violence and exploitation in an effort to obtain food and other necessities for themselves and their families, especially in the absence of social protection programs and in circumstances of food insecurity coupled with impunity for gender-based violence. Thus, human trafficking, forced prostitution, early or forced marriage, domestic abuse, and forced marriage are all more common during and after disasters<sup>114</sup>.

The goal of the General Recommendation No. 37 is to emphasize the need of reducing the negative effects of climate change as soon as possible and to draw attention to the measures that must be taken to attain gender equality. When these goals are realized, people will be more resilient to disasters and climate change on a global scale. By concentrating on how catastrophes and climate change affect women's human rights, it also aims to support global agendas on disaster risk reduction and climate change adaptation<sup>115</sup>.

Turning to General Recommendation No. 38 on trafficking in women and girls in the context of global migration, it was published in 2020. Like General Recommendation No. 19 mentioned above, it aims to implement and further elaborate on Article 6 of CEDAW by contextualising the obligations of States Parties in relation to trafficking

---

<sup>114</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate*, New York, 2018, Introduction

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no37-2018-gender-related>

<sup>115</sup> Ibidem, Objective and scope

within the framework of global migration<sup>116</sup>. The Recommendation recognises the role played by restrictive migration and asylum policies in driving migrants to rely on irregular routes and reaffirms the duty of States Parties to take preventive measures against the exposure of women to the risk of trafficking, including the need for States to discourage demand that leads to the profitability of trafficking. In addition to preventive measures, the obligation to identify, support and protect victims of trafficking, to prevent them from being re-trafficked, to ensure their access to justice and the punishment of perpetrators is recalled<sup>117</sup>.

General Recommendation 38 also presents a distinctive notion. Although the role of digitalisation as a facilitator of trafficking has still been scarcely addressed at the legislative level, in paragraph 12, it is recognised the role played by social media and other communication technologies, such as messaging apps, in recruiting women and girls for exploitation<sup>118</sup>.

## 2. Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC)<sup>119</sup> is an international human rights convention adopted in 1989. It grants children a complete spectrum of human rights, including social, economic, political, civil and cultural rights, and acknowledges them the need for special protection to safeguard these rights. The CRC is aimed at securing children from all forms of violence, discrimination and exploitation, including trafficking, by giving States Parties a framework of measures to undertake<sup>120</sup>.

The CRC and CEDAW are the only contemporary international human rights treaties in which an explicit reference to human trafficking can be found<sup>121</sup>. Article 35 states the

---

<sup>116</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*, New York, 2020, Introduction <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no38-2020-trafficking-women>

<sup>117</sup> Ibidem, Objectives and scope

<sup>118</sup> Ibidem, Legal framework

<sup>119</sup> The Convention on the Rights of the Child (CRC) was adopted through the resolution 44/25 of the General Assembly on the 20th of November 1989 and entered into force on the 2nd of September 1990 in accordance with Article 49. Currently it counts 196 States Parties.

<sup>120</sup> United Nations, *Convention on the Rights of the Child*, New York, 1989 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>121</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 65-68

following: “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”<sup>122</sup>. Furthermore, even if there is no explicit reference to trafficking in them, there are other articles that can be linked to this topic. Article 34 provides that children are protected from all forms of sexual exploitation and abuse, including coercion to engage in unlawful sexual activities and exploitation for prostitution and pornography<sup>123</sup>. The issue of economic exploitation is also addressed. Article 32 explicitly states the need to protect children from all forms of economic exploitation and from performing work that is harmful to their health, development and education<sup>124</sup>. Another article that, though not mentioning trafficking, has implications on the latter, is Article 11. It contains the obligation for States Parties to take measures against the wrongful removal of children and their non-return from abroad<sup>125</sup>.

The Committee on the Rights of the Child, the monitoring body established through Article 43 of the Convention to supervise the implementation of the Convention, has repeatedly argued that Articles 34 and 35 imply a direct link to trafficking and child prostitution. Furthermore, although there is more emphasis in these articles on trafficking for sexual exploitation, in its observations on the reports of States Parties, the Committee also recognised the realities of trafficking for adoption and economic exploitation, especially for forced labour<sup>126</sup>.

The Convention on the Rights of the Child also includes two Optional Protocols that were adopted on 25 May 2000 and entered into force in 2002: the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict<sup>127</sup> and the Optional Protocol to the Convention on the Rights of the Child on the sale of

---

<sup>122</sup> United Nations, *Convention on the Rights of the Child*, New York, 1989, Article 35  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>123</sup> Ibidem, Article 34

<sup>124</sup> Ibidem, Article 32

<sup>125</sup> Ibidem, Article 11

<sup>126</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 65-68

<sup>127</sup> The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was adopted on the 25<sup>th</sup> of May 2000 and entered into force on the 12<sup>th</sup> of February 2002. Currently it counts 173 States Parties.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-involvement-children>

children, child prostitution and child pornography<sup>128</sup>. With regard to the latter, it recognises trafficking as a contributing factor in the development of practices related to the sale and prostitution of children and the production and distribution of child pornography. In addition, it is acknowledged the particular vulnerability of certain groups of children, particularly girls who are disproportionately affected compared to other groups<sup>129</sup>. Compared to the CRC, the Protocol has a more punitive approach to the crimes covered. Indeed, States Parties are urged to take appropriate legislative, jurisdictional and administrative measures to prevent, criminalise and punish the relevant acts<sup>130</sup>. In addition, it is emphasised the need to strengthen international cooperation at all stages, including the prevention, investigation and punishment of the crimes of sale and prostitution of children, child pornography and child sex tourism<sup>131</sup>. Despite the fact that trafficking is specifically referred to in the Protocol only in the preamble, the definition of “sale of children” in Article 2 is generic and broad enough to include situations that can be defined as “trafficking”. Notwithstanding this, trafficking and sale of children remain two distinct phenomena as not all cases of sale of children result in their subsequent exploitation (a necessary factor to fall under the definition of trafficking) and not all cases of trafficking result in an act of sale<sup>132</sup>.

Both the CRC and CEDAW represent an important step in international law to address human trafficking. However, none of these legal instruments had yet provided a definition of trafficking that would allow the international community to identify with sufficient certainty the acts that could be attributed to the latter.

### 3. United Nations Convention against Transnational Organized Crime

---

<sup>128</sup> The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted on the 25<sup>th</sup> of May 2000 and entered into force on the 18<sup>th</sup> of January 2002. Currently it counts 178 States Parties.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>

<sup>129</sup> United Nations, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, New York, 2000, Preamble

<https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>

<sup>130</sup> Ibidem, Articles 3-9

<sup>131</sup> Ibidem, Article 10

<sup>132</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 65-68

The most significant international instrument in fighting against transnational organized crime is the United Nations Convention against Transnational Organized Crime. It was adopted on the 15<sup>th</sup> of November 2000 by resolution 55/22 of the General Assembly and was opened to signatures at a High-level Political Conference held in Palermo between the 12<sup>th</sup> and the 15<sup>th</sup> of December 2000. Finally, it entered into force on the 29<sup>th</sup> of September 2003 in accordance with Article 38 and currently counts 147 States Parties<sup>133</sup>. The Convention is a significant step forward in combating transnational organized crime. Through ratification, Member States acknowledge the gravity of the issues raised by organized crime and the necessity of fostering and enhancing close international cooperation to address them. States Parties undertake to implement a range of measures aimed at combating transnational organized crime. These measures include the establishment of new domestic criminal offenses pertaining to money laundering, corruption, obstruction of justice, and membership in organized crime groups; the adoption of comprehensive frameworks for extradition, mutual legal assistance, and law enforcement cooperation; and the encouragement of training and technical support aimed at enhancing the capabilities of domestic authorities<sup>134</sup>.

The Convention against Transnational Organized Crime is also integrated by three Protocols, which address specific fields of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children<sup>135</sup>; the Protocol against the Smuggling of Migrants by Land, Sea and Air<sup>136</sup>; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition<sup>137</sup>. The relationship between the Convention and the Protocols is defined by Article 37 of the Convention. It states that a State wishing to

---

<sup>133</sup> United Nations, *Convention against Transnational Organized Crime*, New York, 2000  
<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

<sup>134</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 74-77

<sup>135</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>136</sup> United Nations, *Protocol against the Smuggling of Migrants by Land, Sea and Air*, New York, 2000  
[https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM\\_Protocol\\_English.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf)

<sup>137</sup> United Nations, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, New York, 2001  
[https://treaties.un.org/doc/source/recenttexts/18-12\\_c\\_e.pdf](https://treaties.un.org/doc/source/recenttexts/18-12_c_e.pdf)

become a party to a Protocol must necessarily have also ratified the Convention. Conversely, being a State Party to the Convention does not oblige to the ratification of the Protocols<sup>138</sup>.

### 3.1. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also referred to as the Palermo Protocol) can be considered as the starting point for combating human trafficking<sup>139</sup>. The stated aim of the Palermo Protocol is threefold. It aims, firstly, to prevent and combat human trafficking, with particular emphasis on the protection of the most vulnerable and affected groups, namely women and children. To this end, States Parties to the Protocol must criminalise trafficking in human beings in their domestic law and establish appropriate penalties for this crime. The second aim is to protect and assist victims involved in trafficking. Finally, the Protocol aims to promote international cooperation between States Parties to best fulfil the previous purposes. The first purpose is referred to as mandatory by the Protocol; on the contrary, the second and third purposes are at the discretion of the States Parties<sup>140</sup>. The structure of the Palermo Protocol is divided in a manner that generally follows the division between these three purposes<sup>141</sup>.

The Palermo Protocol is an extremely important instrument in the fight against human trafficking as it contains the first internationally recognised definition of human trafficking. Article 3 reads:

*“(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*

---

<sup>138</sup> United Nations, *Convention against Transnational Organized Crime*, New York, 2000, Article 37  
<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

<sup>139</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, pp. 77-80

<sup>140</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 77-83

<sup>141</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, pp. 77-80

*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"<sup>142</sup>.*

From this definition it is possible to identify three substantial elements that must coexist in order to consider a situation as trafficking in persons: the action, the means and the purpose<sup>143</sup>. An exception to the need for these three elements to coexist occurs according to (c). Indeed, in the case of minors, the element of action is sufficient for a trafficking situation to exist<sup>144</sup>.

By "action" is meant the activities of "*recruitment, transportation, transfer, harbouring or receipt of persons*"<sup>145</sup>. Through the definition, one can therefore understand how the process leading to trafficking begins with recruitment but includes several stages in which several actors with different roles may be involved. Since there is no explanation of the terms used in order to give an exhaustive view of what conduct actually falls under the definition, a broader interpretation by states

---

<sup>142</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 3

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>143</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, pp. 80-85

<sup>144</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 3 (c)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>145</sup> *Ibidem*, Article 3 (a)



is more appropriate, especially for the terms “harbouring” and “receipt”, as it is not only actions that actually lead the victim to become part of trafficking, but also actions aimed at maintaining the exploitative condition, that contribute to trafficking<sup>146</sup>.

The second element, that of means, refers to *“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”*<sup>147</sup>. What unites these means is the coercion that trafficking victims undergo in order to become part of trafficking. However, such coercion can take place either by direct means, such as threat, abduction or the use of force; or by more indirect means such as fraud, deception or abuse of power<sup>148</sup>. Also fundamental is the concept of “position of vulnerability”, which was mentioned for the first time in an international instrument in the Palermo Protocol itself. Within the Travaux Préparatoires of the Convention against Transnational Organised Crime, a definition of “position of vulnerability” is given, arguing that it refers to *“any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved”*<sup>149</sup>. This definition recognises the possibility that trafficked persons may be pushed into trafficking by persons who exercise control over them, such as parents, spouse or head of household. A further explanation of the position of vulnerability was given by UNODC in a 2013 document, which states that the term “vulnerability” is *“typically used to refer to those inherent, environmental or contextual factors that increase the susceptibility of an individual or group to being trafficked. These factors are generally agreed to include human rights violations such as poverty, inequality, discrimination*

---

<sup>146</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 77-83

<sup>147</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 3 (a)  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>148</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 52-54

<sup>149</sup> UNODC, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, New York, 2006, p. 347  
[https://www.unodc.org/pdf/ctoccop\\_2006/04-60074\\_ebook-e.pdf](https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf)

and gender-based violence”<sup>150</sup>. It should be noted that it is not the position of vulnerability that leads to the condition of exploitation, but the abuse of this condition by traffickers. Within the preparatory work, there is also an interpretative note on unlawful adoption in relation to the means of giving or receiving payment to induce a person to participate in trafficking. According to the note, illegal adoption only falls within the definition of trafficking if its purpose refers to a practice similar to slavery<sup>151</sup>. This means that under the Palermo Protocol, transactions for illicit adoptions that do not have a commercial purpose do not qualify as trafficking<sup>152</sup>.

The third and final element, which must exist to identify a situation as trafficking in human beings, is the purpose. According to Article 3 of the Protocol, purpose means, as 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*”<sup>153</sup>. The purposes listed are specified at a minimum, in order to encompass as broad a range as possible<sup>154</sup> of any long-established or newly emerging forms of exploitation. In addition to exploitation by forced labour, slavery, servitude or the removal of organs, exploitation by prostitution and other forms of sexual exploitation are also mentioned in the definition. However, as stated in the preparatory work, it must be understood that the Protocol addresses these issues only in reaction to the crime of human trafficking, leaving each State Party free to deal with prostitution through national laws<sup>155</sup>. According to the Protocol, therefore, prostitution is not a crime per se, but becomes one when it constitutes the purpose of trafficking.

---

<sup>150</sup> UNODC, *Issue Paper - Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, New York, 2013, p. 13

[https://www.unodc.org/documents/human-trafficking/2012/UNODC\\_2012\\_Issue\\_Paper\\_-\\_Abuse\\_of\\_a\\_Position\\_of\\_Vulnerability.pdf](https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Issue_Paper_-_Abuse_of_a_Position_of_Vulnerability.pdf)

<sup>151</sup> UNODC, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, New York, 2006, p. 347

[https://www.unodc.org/pdf/ctoccop\\_2006/04-60074\\_ebook-e.pdf](https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf)

<sup>152</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, pp. 83, 84

<sup>153</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 3 (a)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>154</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 52-54

<sup>155</sup> UNODC, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, New York, 2006, p. 347

A further important element within the definition contained in Article 3 is that of “consent”, referred to in subsection (b). As written, where the trafficker has resorted to the means listed in subsection (a), including deception, coercion or abuse of a position of vulnerability, any consent to be trafficked by the victim is irrelevant<sup>156</sup>. Through this point, the Protocol recognises the possibility that people consent to be trafficked as a last hope of securing a better future for themselves or their families. For consent to become relevant, in fact, it is necessary for the victim to have been able to make a free choice, meaning a choice with genuinely valid options to choose from<sup>157</sup>.

As for the subsequent articles, Article 4 explains the general purpose of the Protocol and its scope of application. The Article states that:

*“This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organised criminal group, as well as to the protection of victims of such offences”<sup>158</sup>.*

According to this article, it would appear that the crime of trafficking only exists if it is transnational in nature and only if it involves an organised criminal group. However, according to Article 1, *“The provisions of the Convention shall apply, mutatis mutandis, to this Protocol”<sup>159</sup>*. This means that the application of the Protocol must take into account the provisions of the Convention against Transnational Organised Crime and, in this specific case, Article 34, Paragraph 2 of the Convention, which states that the transnational nature and the involvement of organised criminal groups are not necessary for the criminalisation of trafficking<sup>160</sup>. Consequently, the

---

[https://www.unodc.org/pdf/ctoccop\\_2006/04-60074\\_ebook-e.pdf](https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf)

<sup>156</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 3 (b)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>157</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, pp. 86-90

<sup>158</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 4

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>159</sup> Ibidem, Article 1

<sup>160</sup> United Nations, *Convention against Transnational Organized Crime*, New York, 2000, Article 34

Protocol can be applied to criminalise trafficking both when it is national in nature and when the trafficker's party is not an organised criminal group. The importance of clarifying these points lies in the fact that, according to the Global Report on Trafficking in Persons 2022, domestic trafficking accounts for 60% of the identified cases<sup>161</sup>, thus representing a substantial slice of the problem. In fact, the focal point of the crime of trafficking does not lie in the crossing of borders, but rather in the impairment of a person's enjoyment of human rights<sup>162</sup>.

The first part of the Protocol concludes with Article 5, which imposes an obligation on States Parties to criminalise trafficking through legislative measures that recognise the conduct identified in Article 3 as crimes. These measures must therefore, as a minimum, address all conduct set forth in the Protocol's definition of trafficking<sup>163</sup>.

The second part of the Palermo Protocol concerns protection measures for victims of trafficking. Articles 6, 7 and 8 encourage States Parties to take the necessary measures for the assistance and protection of victims. Prominent among these are the exhortation to maintain the privacy of the victim, to provide for their physical, psychological and social recovery and to ensure access to legal proceedings<sup>164</sup>. Another theme addressed by these articles is that of reception and repatriation. The latter, in particular, is a complex issue, as during or following repatriation, a trafficked person may fall back into the hands of traffickers and be subject to the phenomenon of re-trafficking<sup>165</sup>. For this reason, Article 8 states the preference for voluntary return, during which States Parties ensure the safety of the repatriated victim<sup>166</sup>.

---

<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

<sup>161</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, p. 42

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>162</sup> Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015, p. 92

<sup>163</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 5

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>164</sup> Ibidem, Article 6

<sup>165</sup> For further reading on the re-trafficking phenomenon, see section 3.4. The risk of re-trafficking.

<sup>166</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000, Article 8

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

Finally, to conclude the analysis of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the third part concerns cooperation and measures to prevent trafficking. The encouragement of cooperation between States Parties is implemented through a number of provisions, including the call for information sharing, the strengthening of border controls and the application of joint prevention methods such as information campaigns and social initiatives<sup>167</sup>.

As explained above, the focus of this Protocol is on detecting, prosecuting and punishing the crime of human trafficking. In fact, only the first part of the Protocol is mandatory for States Parties. In contrast, the sections on assistance, protection and prevention are optional, thus denoting the Protocol's more limited interest in human rights. Conversely, the Palermo Protocol represents a fundamental step in the fight against human trafficking, also serving as a starting point for soft law instruments or agreements and regulations at the regional level<sup>168</sup>.

## *SECTION II - Regional law framework against human trafficking*

### 1. The Council of Europe Convention on Action against Trafficking in Human Beings

In the second part of this chapter, regional legal instruments to combat human trafficking will be analysed. The first focus will be on the Council of Europe Convention on Action against Trafficking in Human Beings. Remaining within the framework of the Council of Europe, cases brought to the attention of the European Court of Human Rights will then be analysed in order to specify the role of its jurisprudence in combating trafficking. This will be followed by a focus on the anti-trafficking instruments of the European Union, namely the Charter of Fundamental Rights of the European Union, articles 79 and 83 of the Treaty on the Functioning of the European Union and the Directive 2011/36/EU. Finally, other regional instruments addressing human trafficking in other regions of the world will be presented. These legal instruments include the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Arab Charter on

---

<sup>167</sup> Ibidem, Articles 9-13

<sup>168</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 52-54

Human Rights, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children.

Considering regional anti-trafficking legal instruments, the Council of Europe<sup>169</sup> adopted the Council of Europe Convention on Action against Trafficking in Human Beings. The Council of Europe Convention was open to signatures on 16th May 2005 and entered into force on the 1st of February 2008. Currently, all the members of the Council of Europe have ratified the Convention, with the addition of two non-members, Israel and Belarus, for a total of 48 States Parties<sup>170</sup>. Experts consider it to be the highest international standard to date because it offers a clear and comprehensive framework that addresses a number of issues, including victim protection and assistance, cooperation between various actors and the necessity to criminalize human trafficking. Unlike the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which, as argued above, focuses on the detection, prosecution and punishment of the crime of trafficking, the CoE Convention focuses on victim protection and international cooperation. Furthermore, it recognises the importance of gender equality in combating trafficking and that trafficking constitutes a violation of human rights, as an offence against the integrity of the human being<sup>171</sup>. The CoE Convention thus represents a supplement and an added value to the Protocol, regulating aspects of trafficking that were not regulated under the international minimum standard set by the UN Protocol<sup>172</sup>. In the Preamble of the Convention, specific reference is made to the Palermo Protocol, advocating the need to improve the part on the protection provided to victims<sup>173</sup>. Furthermore, in Article 39, the CoE Convention specifies the relationship with the Protocol, asserting that the Convention does not undermine what

---

<sup>169</sup> The Council of Europe (CoE) is an international organisation whose purpose is to promote democracy, human rights, European cultural identity and the search for solutions to social problems in the countries of Europe. The CoE was founded on 5 May 1949 with the Treaty of London and today has 46 member states. Its institutional seat is in Strasbourg, France, in the Palais d'Europe.

<sup>170</sup> Council of Europe, *Details of Treaty No.197*

<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=197>

<sup>171</sup> De Vido S., *Della tratta di donne e ragazze nel diritto internazionale ed europeo: riflessioni sulla nozione giuridica di "sfruttamento sessuale" alla luce della sentenza S.M c. Croazia della Corte europea dei diritti umani*, GenIUS, 2020, pp. 7, 8

<sup>172</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 110-115

<sup>173</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Preamble <https://rm.coe.int/168008371d>

is already regulated by the Protocol, but instead complements the part on the protection of victims and raises the standards set by the Protocol<sup>174</sup>.

Another difference with the Protocol is the reference to gender equality, which is fundamental both in the prevention phase and in the phase of assistance and protection of the victim<sup>175</sup>. In addition to this, the Convention explicitly determines its scope of application, which is extended to both transnational and domestic trafficking, whether or not related to organised crime<sup>176</sup>.

As for the definition of trafficking provided by the CoE Convention, it perfectly mirrors the definition introduced by the Palermo Protocol<sup>177</sup>. However, within the Explanatory Report, there are some important clarifications. The first one concerns transnational trafficking: besides specifying that trafficking does not necessarily have to involve the crossing of borders, the Explanatory Report states that not even the illegality of crossing or staying in the country of destination are necessary requirements, in fact, a trafficking situation can occur even when the victim has legally crossed the border and/or legally resides in the territory<sup>178</sup>. Another relevant insight within the Explanatory Report, is the definition of a “position of vulnerability”. According to Paragraph 83 of the Explanatory Report, *“by abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family-related, social or economic. [...] In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited”*<sup>179</sup>.

The only difference between the definition of trafficking provided by the CoE Convention and that of the Palermo Protocol is the determination of the meaning of the term “victim”. According to the CoE Convention, by “victim” is meant all persons involved in human trafficking, as defined in the definition of trafficking in Article 4<sup>180</sup>.

---

<sup>174</sup> Ibidem, Article 39

<sup>175</sup> Ibidem, Article 1

<sup>176</sup> Ibidem, Article 2

<sup>177</sup> Ibidem, Article 4

<sup>178</sup> Council of Europe, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Paragraph 80

<https://rm.coe.int/16800d3812>

<sup>179</sup> Ibidem, Paragraph 83

<sup>180</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Article 4  
<https://rm.coe.int/168008371d>

Another important point is in Article 6, where the role of the demand for exploitative services in facilitating trafficking is recognised, which is why this demand must be discouraged<sup>181</sup>. In the same article, reference is also made to the role of the media both to the benefit and detriment of demand<sup>182</sup>, anticipating the current debate on the role of digitalisation in human trafficking.

The protection of and assistance to victims, as mentioned above, is the focus of this Convention, which aims to complement the optional measures of the Palermo Protocol and make them mandatory for States Parties. The first step taken in this direction is to recognise the importance of the correct identification of trafficked persons. Without identification, in fact, the victim would be denied assistance and due process rights<sup>183</sup>. Once the identification of the trafficked person has taken place, States Parties are obliged to provide assistance both in relation to the process (both the procedural part and the protection in case of cooperation or testimony of the victim<sup>184</sup>) and in relation to the standard of living and the psychological, physical and social recovery of the victim<sup>185</sup>. Furthermore, for victims legally present within the territory, obligations are added in relation to medical care, education and training and access to the labour market. Finally, the CoE Convention recognises the relevance in preventing the victim from being criminalised in a trafficking situation<sup>186</sup>. In fact, Article 26 of the Convention reads as follows: *“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”*<sup>187</sup>. Although this provision is on a voluntary basis, it is nevertheless an important and innovative measure, as it recognises a limited responsibility of the trafficking victim, possibly compelled to take part in it.

---

<sup>181</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 56-58

<sup>182</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Article 6 <https://rm.coe.int/168008371d>

<sup>183</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 116-118

<sup>184</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Article 28 <https://rm.coe.int/168008371d>

<sup>185</sup> *Ibidem*, Article 12

<sup>186</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 116-118

<sup>187</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Article 26 <https://rm.coe.int/168008371d>



Regarding the legal status of victims, here too the Convention has tried to mark the importance of human rights. In fact, victims are entitled to a 30-day period of stay in the territory of the State Party, to be considered as an interval for recovery and reflection<sup>188</sup>. Furthermore, a series of measures are established to complete the possible repatriation process, preferably voluntary, in safety and in a way that preserves the dignity of the victim and avoids situations of re-victimisation<sup>189</sup>.

In relation to the penal provisions of the CoE Convention, they are extremely similar to those contained in the UN Protocol, but with some additions. In fact, it is not only the crime of human trafficking that is criminalised, but also some of the acts committed for the purpose of facilitating it, such as forgery or seizure of documents<sup>190</sup>. In addition, States Parties are required to criminalise aiding, abetting and abetting<sup>191</sup>.

In relation to preventing and combating trafficking, this is the explicit aim of the European Trafficking Convention. In this sense, prevention refers to proactive steps taken to prevent human trafficking in the future. Most efforts to prevent human trafficking concentrate on two main areas: making potential victims less vulnerable and raising the likelihood that traffickers will be caught and prosecuted. Thus, it is reasonable to anticipate that many of the Convention's anti-trafficking measures, like tightening border and criminal justice response mechanisms, holding end users accountable for their actions, etc., will also have a preventive impact<sup>192</sup>.

International cooperation is also one of the aims of the Convention. In general, the obligation for state parties is to cooperate with each other, in as many areas and as broadly as possible<sup>193</sup>.

Finally, the last aspect that distinguishes the CoE Convention is the establishment of a monitoring system of the measures undertaken by the States Parties following ratification, so as to ensure a more effective implementation of the provisions of the Convention. The monitoring system consists of a technical body called the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the

---

<sup>188</sup> Ibidem, Article 13

<sup>189</sup> Ibidem, Article 16

<sup>190</sup> Ibidem, Article 20

<sup>191</sup> Ibidem, Article 21

<sup>192</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 124, 125

<sup>193</sup> Ibidem, pp. 125, 126

Parties<sup>194</sup>. The GRETA is composed of experts in the field of anti-trafficking, victim assistance and human rights. It is mandated to provide reports on the progress made by States Parties on the implementation of the provisions and to provide assistance and protection to victims<sup>195</sup>. The Committee of the Parties, on the other hand, is composed of representatives of the Committee of Ministers of the Council of Europe member states and representatives of the non-member states of the CoE. The Committee of the Parties had the initial task of choosing the members of GRETA, as well as the purpose of adopting recommendations on the basis of the reports drafted by GRETA and the conclusions contained therein<sup>196</sup>.

To sum up, the Convention on Action against Trafficking of Human Beings is a crucial legal tool. Following the UN Trafficking Protocol's implementation, it recognized human trafficking and introduced a less oppressive approach, emphasizing the importance of human rights over the penalty of trafficking. In addition to providing aspects for the battle against these phenomena, such as the Group of Experts on Action Against Trafficking in Human Beings (GRETA), it also incorporated additional measures on protection of victims' rights and prevention efforts for states as good practice models.

## 2. The European Court of Human Rights jurisprudence

The existence of the European Court of Human Rights (ECHR) is established through Article 19 of the European Convention on Human Rights, which was adopted on 4 November 1950 in Rome and entered into force on 3 September 1953. The Convention is the first instrument to make binding some of the rights contained within the Universal Declaration of Human Rights<sup>197</sup>. Although there are no provisions within the Convention that explicitly mention trafficking in human beings, Article 4 prohibits slavery and servitude, as well as forced labour, stating the following:

---

<sup>194</sup> Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Articles 36, 37

<https://rm.coe.int/168008371d>

<sup>195</sup> Ibidem, Article 36

<sup>196</sup> Council of Europe, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw, 2005, Chapter VII - Monitoring mechanism

<https://rm.coe.int/16800d3812>

<sup>197</sup> ECHR, *European Convention on Human Rights*

<https://www.echr.coe.int/european-convention-on-human-rights#>

*“No one shall be held in slavery or servitude.*

*No one shall be required to perform forced or compulsory labour”*.<sup>198</sup>

The ECHR, through its judgments, has played an essential role in the evolution of the European legislative framework in the area of combating human trafficking. In particular, it has been instrumental in defining trafficking as a human rights violation and in determining the positive obligations states have in combating trafficking. Indeed, trafficking is a crime perpetrated by non-state actors and therefore not attributable to a state. However, recognising trafficking as a human rights violation also recognises the presence of positive and negative obligations for states in combating it to ensure respect for fundamental human rights<sup>199</sup>. By positive obligations is meant the state's compliance with the acts that enable the enjoyment of human rights by individuals subject to the state's jurisdiction<sup>200</sup>. These positive obligations are fulfilled through due diligence that obliges them to prevent and counteract acts that could cause a violation of fundamental human rights<sup>201</sup>. Negative obligations, on the other hand, refers to the constraint on the state not to interfere with the enjoyment of human rights<sup>202</sup>.

Significant ECHR judgments in the fight against trafficking have been established precisely through the application of Article 4 of the Convention. One of these rulings concerns the *Siliadin v. France* case from 2005. The case concerned a young 15-year-old girl of Togolese origin who arrived in France in 1994 with a passport and tourist visa and was kept, in exchange for false promises, as a domestic worker in exploitative conditions<sup>203</sup>. The French court, despite the fact that the girl was not retributed and did not have a working hours amount that was congruent with the limits set by French national law, did not consider that the young woman was in an employment situation that violated human dignity<sup>204</sup>. When the case was brought before the ECHR, it instead

---

<sup>198</sup> ECHR, *European Convention on Human Rights*, Rome, 1950, Article 4  
[https://www.echr.coe.int/documents/d/echr/Convention\\_ENG](https://www.echr.coe.int/documents/d/echr/Convention_ENG)

<sup>199</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 58-60

<sup>200</sup> De Vido S., *States' Due Diligence Obligations to Protect Women from Violence: A European Perspective in Light of the 2011 CoE Istanbul Convention*, *European Yearbook on Human Rights*, 2014, pp. 365-382

<sup>201</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 58-60

<sup>202</sup> De Vido S., *States' Due Diligence Obligations to Protect Women from Violence: A European Perspective in Light of the 2011 CoE Istanbul Convention*, *European Yearbook on Human Rights*, 2014, pp. 365-382

<sup>203</sup> ECHR, *Siliadin v. France*, Application no. 73316/01, Strasbourg, 26<sup>th</sup> July 2005, Paragraphs 10-17  
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-69891%22%5D%7D>

<sup>204</sup> *Ibidem*, Paragraph 26

recognised the applicant's working conditions as a situation of servitude generated in the context of trafficking, to which Article 4 of the Convention could be applied<sup>205</sup>. In its judgment, the Court held France responsible for failing to fulfil its positive obligation under Article 4 to provide an adequate legal framework to penalise and prosecute acts of slavery, servitude and forced labour<sup>206</sup>. In fact, the Court emphasised the failure of French criminal law to guarantee protection for the victims of these crimes<sup>207</sup>.

Another ECHR ruling, important for the fight against trafficking, is the case of *Rantsev v. Cyprus and Russia*. This case is considered the milestone of the ECHR's provisions on human trafficking<sup>208</sup>. The case was brought to the ECHR by Nikolay Mikhayloch Rantsev, the father of Oxana Rantsev, a Russian girl brought to Cyprus on an artist visa by the owner of a cabaret where the girl was forced to work. This type of visa was known to be used as a cover for importing girls to work as prostitutes. After Oxana had managed to escape, her employer tracked her down and took her to the police to have her deported so that a replacement could be found. Since the police did not realise that this was a trafficking situation and that under Cypriot law there were no grounds for detaining Oxana, those responsible for her, namely her employer, should have taken care of her until further investigation the following day<sup>209</sup>. However, in the morning, Oxana was found dead on the street below the flat to which she had been taken by her employer<sup>210</sup>. As already mentioned, the case was brought to the ECHR by Oxana's father. In its judgment, the Court stated the following:

*"In view of its obligation to interpret the Convention in light of present-day conditions, the Court considers it unnecessary to identify whether the treatment about which the applicant complains constitutes "slavery", "servitude" or "forced and compulsory labour". Instead, the Court concludes that trafficking itself, within the meaning of Article*

---

<sup>205</sup> Ibidem, Paragraph 89

<sup>206</sup> Ibidem, Paragraph 149

<sup>207</sup> Ibidem, Paragraph 148

<sup>208</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 58-60

<sup>209</sup> ECHR, *Rantsev v. Cyprus and Russia*, Application no. 25965/04, Strasbourg, 7<sup>th</sup> January 2010, Paragraph 19

<https://rm.coe.int/16806ebd5e>

<sup>210</sup> Ibidem, Paragraph 24

*3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the Convention*<sup>211</sup>.

Through this paragraph, the ECHR explicitly recognises that the fight against human trafficking falls within the scope of Article 4 of the European Convention on Human Rights. Furthermore, through the ruling, the Court expanded the positive obligations that states have to fulfil under Article 4. Paragraph 284 of the judgment reads:

*"[...] the Court confirmed that Article 4 entailed a specific positive obligation on member States to penalise and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour.[...] The Court observes that the Palermo Protocol and the Anti- Trafficking Convention refer to the need for a comprehensive approach to combat trafficking which includes measures to prevent trafficking and to protect victims, in addition to measures to punish traffickers. It is clear [...] that only a combination of measures addressing all three aspects can be effective in the fight against trafficking"*<sup>212</sup>.

Indeed, both Cyprus and Russia were found guilty of failing to fulfil their positive obligations. In particular, Cyprus was found liable for failing to identify the trafficked person as such, for returning her to her exploiter without proper verification and for failing to conduct adequate investigations following the death of the victim<sup>213</sup>. On the other hand, the Court found that Russia was aware of a trafficking problem concerning Russian women trafficked transnationally for the purpose of being sexually exploited. At the same time, the Court attested to the lack of actions by Russia to prevent this problem and the lack of investigations carried out with the aim of protecting the trafficking victim and counteracting the actions of traffickers on its territory<sup>214</sup>.

There are other ECHR judgments relevant to the fight against human trafficking. These include L.E. v. Greece from 2016, in which Greece is found liable for violation of Article 4 of the Convention for failing to fulfil its positive obligations regarding the delay of the national authorities in recognising the applicant as a victim of trafficking and providing

---

<sup>211</sup> Ibidem, Paragraph 181

<sup>212</sup> Ibidem, Paragraph 284

<sup>213</sup> Ibidem, Paragraphs 289-299

<sup>214</sup> Ibidem, Paragraphs 300-308

her with protection, and the failures of the police and courts to prosecute suspected traffickers<sup>215</sup>.

In the 2017 case *Chowdury and others v. Greece*, on the other hand, the concept of “consent” was elaborated, which does not exist when “*an employer abuses his power or takes advantage of the vulnerability of his workers in order to exploit them*”<sup>216</sup>. Furthermore, the same judgment states that the consent given previously by the victim is not sufficient to exclude the type of work at issue from the definition of forced labour<sup>217</sup>.

Finally, in *S. M. v. Croatia* of 2018, there is a separation of sexual exploitation for prostitution from trafficking, thus leading to a broadening of the application of Article 4 of the Convention<sup>218</sup>. More precisely, prostitution already fell within the scope of Article 4 when linked to a trafficking situation. However, through this ruling, the application of this Article can also take place in cases of forced prostitution, even if not related to trafficking, as it falls within the scope of “forced labour” under Article 4<sup>219</sup>.

The judgments presented, constitute a limited part of the ECHR cases analysed as violating Article 4, however, these judgments provide an overview of the positive and negative obligations of states towards the crime of human trafficking.

### 3. European Union anti-trafficking law

In this part of the chapter, the focus will be on the anti-trafficking instruments of the European Union, namely the Charter of Fundamental Rights of the European Union, articles 79 and 83 of the Treaty on the Functioning of the European Union and the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. With the exception of Directive 2011/36/EU, these are legal

---

<sup>215</sup> ECHR, *L.E. v. Greece*, Application no. 71545/12, Strasbourg, 21<sup>st</sup> January 2016

<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-160218%22%5D%7D>

<sup>216</sup> ECHR, *Chowdury and others v. Greece*, Application no. 21884/15, Strasbourg, 30<sup>th</sup> March 2017, Paragraph 96

<https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2221884/15%22%5D%2C%22itemid%22:%5B%22001-172701%22%5D%7D>

<sup>217</sup> *Ibidem*, Paragraph 96

<sup>218</sup> De Vido S., *Della tratta di donne e ragazze nel diritto internazionale ed europeo: riflessioni sulla nozione giuridica di “sfruttamento sessuale” alla luce della sentenza S.M c. Croazia della Corte europea dei diritti umani*, GenIUS, 2020, p. 16

<sup>219</sup> ECHR, *S.M. v. Croatia*, Application no. 60561/14, Strasbourg, 19<sup>th</sup> July 2018, Paragraph 54  
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-184665%22%5D%7D>

instruments whose specific purpose is not to combat trafficking. Nevertheless, they serve as a starting point for the creation of other legal instruments such as, precisely, Directive 2011/36/EU.

### 3.1. Charter of Fundamental Rights of the European Union and articles 79 and 83 of the Treaty on the Functioning of the European Union

The European Union has been involved in the fight against human trafficking since the 1990s, following the creation of the single market and the subsequent abolition of internal borders. On the one hand, this ensured the free movement of goods, services, capital and people; on the other hand, it led to the proliferation of transnational crimes. For this reason, it became necessary to strengthen cooperation between states in order to create instruments that would guarantee common security<sup>220</sup>.

Today, the European Union has a legislative framework common to its 27 Member States that acts against human trafficking. Firstly, trafficking is expressly prohibited by the 2000 Charter of Fundamental Rights of the European Union. The purpose of the Charter is to protect and promote the fundamental rights enjoyed by people within the EU. Its provisions apply, according to the principle of subsidiarity, to the European institutions and, once the EU legislation is transposed, to the Member States and in conjunction with other national and international instruments for the protection of fundamental rights, including the European Convention on Human Rights<sup>221</sup>. Article 5 of the Charter expressly prohibits trafficking in human beings, together with servitude, slavery and forced labour<sup>222</sup>. This article is part of Chapter I, the chapter concerning human dignity, thus recognising that trafficking in human beings is a violation of that dignity. The Charter of Fundamental Rights of the

---

<sup>220</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, p. 61

<sup>221</sup> European Commission, *EU Charter of Fundamental Rights*  
[https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights\\_en](https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en)

<sup>222</sup> European Union, *EU Charter of Fundamental Rights*, 2000, Article 5  
[https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

European Union became legally binding in December 2009, through the entry into force of the Lisbon Treaty<sup>223</sup>.

The Treaty of Lisbon also resulted in the Treaty on the Functioning of the European Union (TFEU), one of the fundamental treaties of the EU, which forms the basis of EU law by determining the objectives, principles and scope of action of the European Union, as well as establishing the functioning of the EU institutions<sup>224</sup>. Within the TFEU, specific reference is made to trafficking in human beings. In particular, Article 79 reads:

*“1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.*

*2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:*

*[...]*

*(d) combating trafficking in persons, in particular women and children”<sup>225</sup>.*

Through this article, the TFEU promotes, among other things, the development of a common policy to combat trafficking in human beings, in particular women and children. Also interesting is the juxtaposition of illegal immigration and trafficking, which outlines a correlation between the two phenomena<sup>226</sup>.

Article 83, which is part of the chapter on judicial cooperation in criminal matters, also explicitly refers to trafficking. It empowers the European Parliament and the European Council to establish minimum standards concerning the definition of

---

<sup>223</sup> European Commission, *EU Charter of Fundamental Rights*  
[https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights\\_en](https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en)

<sup>224</sup> European Union, *Treaty on the Functioning of the European Union*  
<https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>

<sup>225</sup> European Union, *Consolidated version of the Treaty on the Functioning of the European Union, 2012*, Article 79

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

<sup>226</sup> *Ibidem*, Article 79



criminal offences and respective sanctions in cases of particularly serious crimes, including trafficking in human beings<sup>227</sup>.

However, despite the presence of anti-trafficking instruments in EU legislation, their approach is merely repressive towards trafficking, focusing on the detection and punishment of this crime. On the contrary, no instrument focuses on assistance and protection of victims.

### 3.2. Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims

To address the lack of an instrument focusing on assistance and protection of victims, Directive 2011/36/EU on preventing and combating trafficking and protecting victims was introduced on 5 April 2011<sup>228</sup>. Being a directive, it had to be adapted into the national legal systems of the Member States in order to be implemented.

Directive 2011/36/EU focuses mainly on three aspects of trafficking: the prevention of trafficking, the prosecution of trafficking and its punishment, and the protection of victims. In particular, in relation to prevention and protection of victims, the Directive is based on the standards set internationally by human rights legislation, thus recognising the occurrence of a violation of human rights in cases of trafficking in persons and acknowledging the importance of promoting and protecting these rights<sup>229</sup>. This type of approach ensures that the fight against trafficking aims not only at punishing a crime that has already been committed, but also at remedying those preconditions that give rise to or facilitate trafficking. This is done while at the same time providing appropriate assistance, protection and remedies to victims of trafficking<sup>230</sup>.

---

<sup>227</sup> Ibidem, Article 83

<sup>228</sup> European Union, *Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims*, 2011  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:en:PDF>

<sup>229</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, pp. 61-63

<sup>230</sup> European Union, *Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims*, 2011, Preamble, Paragraph 7  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:en:PDF>

What first distinguishes Directive 2011/36/EU is the extension of the forms of exploitation covered by the definition of trafficking. In particular, reference is made to forced begging, organ harvesting, forced criminal activity, illegal adoptions and forced marriage<sup>231</sup>. In addition, the use of a holistic approach is declared to constitute an instrument that unites criminal justice provisions with human rights provisions, while encouraging Member States to cooperate both with each other and with international organisations and other actors<sup>232</sup>. Another feature of the directive is to recognise the role of demand in influencing and developing trafficking. Therefore, Member States are incentivised to discourage demand through appropriate measures<sup>233</sup>.

This legal instrument shows particular attention to the most vulnerable victims, recognising the need for a gender perspective<sup>234</sup>. In fact, in the Preamble, it is agreed that trafficking in men and trafficking in women tend to have different purposes and, for this reason, measures taken by Member States to protect, assist and support victims should also be adapted to gender specificities<sup>235</sup>.

In Article 8, on the other hand, in the wake of the Council of Europe Convention on Action against Trafficking in Human Beings, supports the obligation not to prosecute victims of trafficking who have been forcibly engaged in criminal activities as a consequence of being trafficked<sup>236</sup>.

As already argued, among the main purposes of the Directive there are prevention, assistance and protection of victims. As far as assistance is concerned, it is envisaged that it must be provided both during and for a period of time after the conclusion of criminal proceedings. Assistance must be provided irrespective of the victim's willingness to participate in criminal proceedings and must guarantee measures adapted to the victim's specific needs, which may be the consequence of pregnancy, mental disorders, psychological and physical trauma, etc. In addition, the importance of rapid identification of victims is recognised, with the aim of providing support and assistance as immediately as possible, in order to avoid any aggravation of the

---

<sup>231</sup> Ibidem, Preamble, Paragraph 11

<sup>232</sup> Ibidem, Preamble, Paragraph 9

<sup>233</sup> Ibidem, Preamble, Paragraph 25

<sup>234</sup> Ibidem, Article 1

<sup>235</sup> Ibidem, Preamble, Paragraph 3

<sup>236</sup> Ibidem, Article 8

victim's condition<sup>237</sup>. With regard to protection, instead, Article 12 refers to both the obligation to provide adequate legal assistance and to prevent the victim from being re-trafficked. These protection measures must also be provided according to an individual assessment taking into account the risks to which the victim specifically could be subjected<sup>238</sup>. For prevention, on the other hand, Member States must take the necessary measures to discourage demand, which the Directive recognises as the cause of all forms of exploitation that in turn encourage trafficking in human beings. These measures include the implementation of awareness-raising and information campaigns, implemented also through the use of the internet; the training of officials in order to promote a more immediate identification of potential victims of trafficking; and the encouragement of Member States to criminalise the act of knowingly using services related to the exploitation of trafficked persons<sup>239</sup>.

Finally, Directive 2011/36/EU promotes the establishment of a monitoring system composed of National Rapporteurs or equivalent mechanisms with the role of assessing the evolution and trends of the phenomenon of trafficking; evaluating the results of anti-trafficking actions, including through the collection of data and statistics in cooperation with organisations active in this field; and drafting reports<sup>240</sup>. Among the organisations the National Rapporteurs are encouraged to coordinate with is the GRETA and the Committee of the Parties, established through the Council of Europe Convention on Trafficking in Human Beings<sup>241</sup>.

In conclusion, to summarise, Directive 2011/36/EU has changed the EU's perspective on trafficking from a repression-oriented approach to one of respect for human rights and victims, representing a binding instrument in line with the standards set internationally by legislation on human rights and trafficking in persons. It should also be added that a proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims was recently tabled with the aim of improving the Directive 2011/36/EU, in order to reduce the scope of the crime of

---

<sup>237</sup> Ibidem, Article 11

<sup>238</sup> Ibidem, Article 12

<sup>239</sup> Ibidem, Article 18

<sup>240</sup> Ibidem, Article 19

<sup>241</sup> Ibidem, Preamble, Paragraph 9

trafficking, strengthen the legal framework, address the shortcomings and contextually respond to new emerging challenges in the area of trafficking in human beings<sup>242</sup>.

#### 4. Other regional legal instruments

In addition to European-level instruments, there are other regional legal instruments aimed at combating human trafficking. Among them, there is the American Convention on Human Rights (also known as the Pact of San José, Costa Rica). The Convention was adopted on 22<sup>nd</sup> of November 1969 and entered into force in 1978, in accordance with Article 74.2 of the Convention. It has been ratified by 25 Central and South American countries<sup>243</sup>. The Convention makes specific reference to trafficking and, more specifically, to trafficking in women. Article 6, entitled “*Freedom from slavery*”, reads as follows:

*“1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.*

*2. No one shall be required to perform forced or compulsory labour”<sup>244</sup>.*

The Convention's focus on women is also taken up by the Inter-American Convention on the Prevention, Suppression and Eradication of Violence against Women, where, in Article 2, trafficking in persons is mentioned as a form of violence against women<sup>245</sup>.

Another noteworthy regional legal mechanism is the African Charter on Human and Peoples' Rights (ACHPR). After being adopted in Nairobi in 1981, it came into force on 21 October 1986. It is Africa's oldest human rights instrument. The Convention has 54 Member States<sup>246</sup> and through it the African Commission on Human and Peoples' Rights

---

<sup>242</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 2022

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732>

<sup>243</sup> Department of International Law, *American Convention on Human Rights "Pact of San Jose, Costa Rica"* [https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights\\_sign.htm](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm)

<sup>244</sup> Organisation of American States, *American Convention on Human Rights*, San Jose, 1969, Article 6 [https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.pdf](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf)

<sup>245</sup> De Vido S., *Della tratta di donne e ragazze nel diritto internazionale ed europeo: riflessioni sulla nozione giuridica di “sfruttamento sessuale” alla luce della sentenza S.M c. Croazia della Corte europea dei diritti umani*, GenIUS, 2020, p. 9

<sup>246</sup> African Union, *African Charter on Human and Peoples' Rights* <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

was established to monitor, safeguard and promote respect for rights on the African continent<sup>247</sup>. There is no specific reference to human trafficking in the Convention, but Article 5 states that every individual must have his or her dignity respected and prohibits all kinds of exploitative activities, including slavery, torture and the slave trade<sup>248</sup>. A specific reference to trafficking is made instead in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. This Protocol was adopted on the 1<sup>st</sup> of July 2003 and entered into force in 2005. It has currently been ratified by 44 countries<sup>249</sup>. Article 4 enshrines women's right to integrity, safety and respect for life. For this reason, any form of exploitation or conduct against women's integrity is prohibited<sup>250</sup>. In the same Article, it is also decreed that States Parties are obliged to prevent trafficking in women and to condemn it; to prosecute its perpetrators and to protect those women who are in a position of greater vulnerability to trafficking<sup>251</sup>.

Another regional instrument useful in combating trafficking is the Arab Charter on Human Rights, adopted in 1995, revised in 2004 and entered into force several years later, in 2008. Following the revision published in 2004, the Charter prohibits trafficking in persons in Article 10. The Article reads as follows:

*"1. All forms of slavery and trafficking in human beings are prohibited and are punishable by law. No one shall be held in slavery and servitude under any circumstances.*

*2. Forced labour, trafficking in human beings for the purposes of prostitution or sexual exploitation, the exploitation of the prostitution of others or any other form of exploitation or the exploitation of children in armed conflict are prohibited"*<sup>252</sup>.

Interestingly, in contrast to the non-European regional instruments addressed so far, the Arab Charter on Human Rights does not refer to trafficking as a phenomenon affecting

---

<sup>247</sup> African Union, *African Charter on Human and Peoples' Rights*, Nairobi, 1981, Articles 30, 45  
[https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf)

<sup>248</sup> Ibidem, Article 5

<sup>249</sup> African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*

<https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

<sup>250</sup> African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, Maputo, 2003, Article 4

[https://au.int/sites/default/files/treaties/37077-treaty-charter\\_on\\_rights\\_of\\_women\\_in\\_africa.pdf](https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf)

<sup>251</sup> Ibidem, Article 4, Paragraph 2(g)

<sup>252</sup> League of Arab States, *Arab Charter on Human Rights*, 2004, Article 10

<https://www.ohchr.org/sites/default/files/Documents/Issues/IJudiciary/Arab-Charter-on-Human-Rights-2005.pdf>

only women, but rather uses the term “trafficking in human beings”. Despite this, however, in the second point of Article 10, it seems to recognise prostitution and sexual exploitation as the only type of exploitation related to trafficking. The only other reference to trafficking occurs, in fact, in Article 9, where, however, only trafficking in organs is prohibited per se and not trafficking in persons for the removal of organs<sup>253</sup>. Focusing on the Asian continent, it is possible to rely on two instruments to address trafficking. The first is the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. This is a convention promoted by the South Asian Association for Regional Cooperation (SAARC), an organisation established on 8 December 1985 to promote quality of life, economic growth and cooperation among its eight member states, namely Afghanistan, Pakistan, India, Bangladesh, Nepal, Bhutan, Sri Lanka and the Maldives. The SAARC Convention on Trafficking was adopted in January 2002 and entered into force in December 2005. The states parties include all SAARC member states. It is the first regional instrument specifically designed to combat trafficking<sup>254</sup>. Article 2, on the purpose of the Convention, reads as follows:

*“The purpose of this Convention is to promote cooperation among Member States so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination”*<sup>255</sup>.

A reading of this article shows that the SAARC Convention, in addition to its repressive approach, also focuses on prevention and assistance to victims<sup>256</sup>, demonstrating a greater consideration of human rights than other legal instruments adopted in those same years. Despite this, the SAARC Convention does not seem to recognise the role of

---

<sup>253</sup> Ibidem, Article 9

<sup>254</sup> Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010, pp. 126-128

<sup>255</sup> SAARC, *South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, 2002, Article 2

<https://www.saarc-sec.org/index.php/resources/agreements-conventions/50-saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution/file>

<sup>256</sup> Ibidem, Articles 8 and 9

trafficking in men and trafficking that does not include prostitution as the only type of exploitation. In Article 1, where the definitions necessary for the interpretation of the Convention are provided, trafficking is defined as the transportation or buying and selling of women and children for the purpose of prostitution<sup>257</sup>. In contrast, according to the definition of trafficked persons, child or forced marriage are the means by which the victim is induced into prostitution, without constituting types of exploitation per se<sup>258</sup>. The second regional instrument relating to the Asian continent, and the last to be analysed, is the Association of Southeast Asian Nations Convention against Trafficking in Persons particularly Women and Children (ACTIP). Sponsored by the Association of Southeast Asian Nations (ASEAN), an organisation of 10 Asian states (Myanmar, Laos, Thailand, Cambodia, Vietnam, Malaysia, Singapore, Brunei, Indonesia and the Philippines)<sup>259</sup>, the ASEAN Convention was adopted in November 2015 and entered into force in 2017. Prior to the adoption of the Convention, ASEAN's commitment to combating trafficking, recognised as a problem to be tackled through inter-state cooperation, had been implemented through non-binding instruments since 1997<sup>260</sup>. In fact, as seen in the analysis of trafficking flows in chapter one, South-East Asia is heavily affected by trafficking<sup>261</sup>. Adopted 15 years after the Palermo Protocol and 10 years after the CoE Convention, the ASEAN Convention takes up the approach of these two instruments, including the same definition of trafficking and very similar provisions to those in the two previous instruments<sup>262</sup>. Nevertheless, the ASEAN Convention does not limit itself to the repressive approach that characterises the Palermo Protocol and the CoE Convention, but also embraces a more comprehensive and human rights-centred approach, emphasising the importance of measures to protect and assist victims<sup>263</sup>. Article 1 states the aims of the Convention, namely: to prevent and combat trafficking,

---

<sup>257</sup> Ibidem, Article 1, Paragraph 3

<sup>258</sup> Ibidem, Article 1, Paragraph 5

<sup>259</sup> ASEAN, *About ASEAN*

<https://asean.org/about-us/>

<sup>260</sup> Yusran R., *The ASEAN Convention Against Trafficking in Persons: a Preliminary Assessment*, Asian Journal of International Law, Volume 8, 2017, pp. 258-292

<sup>261</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 117-132

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>262</sup> De Vido S., *Della tratta di donne e ragazze nel diritto internazionale ed europeo: riflessioni sulla nozione giuridica di "sfruttamento sessuale" alla luce della sentenza S.M c. Croazia della Corte europea dei diritti umani*, GenIUS, 2020, p. 9

<sup>263</sup> Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019, p. 55

with particular attention to women and children; to assist and protect victims in accordance with human rights; and to promote cooperation among States Parties in order to achieve the above objectives<sup>264</sup>.

The anti-trafficking instruments analysed above emphasise the importance of binding regional instruments that create a common legal framework and encourage cooperation between States belonging to the same territory, which often share the same trafficking issues.

---

<sup>264</sup> ASEAN, *ASEAN Convention against Trafficking in Persons particularly Women and Children*, 2015, Article 1  
<https://asean.org/asean2020/wp-content/uploads/2021/01/ACTIP.pdf>



## Chapter III: THE IMPACT OF DIGITALIZATION IN WOMEN TRAFFICKING

### 1. The role of digitalization in women trafficking

With the spreading of digitalisation and, in particular, of communication platforms, some traffickers have started to adapt their modus operandi to the new opportunities that digital platforms offer them. Every day, these platforms are used to implement the different stages of trafficking, in particular those of recruitment and exploitation of victims<sup>265</sup>. The most commonly used means are social media, such as Facebook, WhatsApp and Skype; generic web pages where advertisements are posted both to sell victims' services and to recruit them; and independent web pages created by traffickers themselves. Social media, in particular, have become increasingly commonly used by traffickers, becoming an emerging threat in human trafficking<sup>266</sup>. The percentage of victims trafficked or exploited through social media has grown to 51 per cent<sup>267</sup> of cases<sup>268</sup>. This is due to the decrease in the average age at which people come into contact with social media. Indeed, it appears that many children use social media from an early age. This overexposure of boys and children makes them extremely vulnerable in the eyes of traffickers<sup>269</sup>.

Another point in favour of traffickers is the possibility for traffickers to operate across borders and in several places at the same time, without any real need to move or make victims move. The latter can in fact also be exploited through the creation of multimedia content that can be uploaded onto cyberspace, thus connecting traffickers, victims and final consumers<sup>270</sup>.

---

<sup>265</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 119-128

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>266</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, *European Journal on Criminal Policy and Research*, 2019, p. 216

<sup>267</sup> Note that this percentage comes from a UNODC study based on a limited dataset and therefore does not necessarily represent all cases of trafficking.

<sup>268</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 119-128

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>269</sup> *Ibidem*, pp. 119-128

<sup>270</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, pp. 1,2

[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

The rapid emergence of this new issue, however, has not been matched by an equally rapid response from the international community. In fact, references to the role of digitalisation in the spread of trafficking are still few and insufficient within the international legal framework.

This chapter will analyse the role of digitalisation in the different stages of trafficking, shed light on the reasons that make trafficking and exploitation through digital technologies so difficult to prosecute and, finally, analyse anti-trafficking legal frameworks containing mechanisms to explicitly counteract the role of digitalisation in human trafficking.

### 1.1. Recruitment

Digital platforms are a great opportunity for traffickers to profit from in order to recruit potential victims of trafficking. In particular, there are two different approaches: the active approach and the passive approach<sup>271</sup>. Regarding the first approach, traffickers proactively search for potential victims, who are targeted according to specific characteristics that make them more vulnerable, such as economic or psychological difficulties. This targeting is possible thanks to the total accessibility of personal information that is shared by users within websites and social media. As for the passive approach, traffickers post generic advertisements, usually concerning well-paid job advertisements and wait for a response from potential victims interested in the deceptive advertisement<sup>272</sup>.

Through the use of digital tools, traffickers are able to reach a great number of people with minimal effort, having the widest range of individuals with different economic, family and geographical backgrounds at their disposal.

Increasingly used for the recruitment phase are social media, as they allow luring younger victims who make greater use of them and are more easily manipulated and susceptible to deceptive strategies. In most cases, those involved in luring victims try to establish an emotional bond with them, sometimes feigning romantic interest. In

---

<sup>271</sup> Ibidem, pp. 1-3

<sup>272</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 119-128  
[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

this case, having information about the potential victim, obtained through the personal data entered into the various online platforms, allows for tailor-made deceptions that prompt the victim to make a connection very quickly. Once the victim's trust has been gained, the victim may be involved in trafficking through blackmail, coercion, threats, violence or emotional manipulation. For instance, it is possible that the victim is blackmailed through photos sent to the recruiter in the belief that he or she is in a love relationship with the recruiter and forced to do as requested in order to safeguard against the threat of publicly disclosing those photos<sup>273</sup>.

Having given an overview of the change that digitalisation has brought to the recruitment process, it is necessary to understand how much this type of digital recruitment has impacted on trafficking in women. Certainly, digitalisation does not only pose a new challenge to trafficking in women, but also to trafficking in children and men. Nevertheless, it can be said that women are the category most affected by these new developments. According to a Europol study published in October 2020, the majority of identified victims trafficked through the use of digital platforms consists of women<sup>274</sup>. Indeed, online recruitment appears to be more pervasive in trafficking for sexual exploitation than in trafficking for forced labour and, as has already been reported, trafficking for sexual exploitation involves more women<sup>275</sup>. This less widespread use of digital platforms in trafficking for forced labour could be explained through the identification of the demographic target for this type of exploitation<sup>276</sup>. Very often, victims of trafficking for forced labour are recruited from very poor regions or regions affected by environmental disasters, where the internet connection is less likely to be provided or guaranteed<sup>277</sup>. This creates a technology

---

<sup>273</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 220-222

<sup>274</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, p. 2  
[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

<sup>275</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 33-39

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>276</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 220-222

<sup>277</sup> Ibidem, pp. 220-222

gap that hinders the connection between victims and traffickers. Another cause that may contribute to women's increased implication in trafficking involving the use of digital platforms is the higher vulnerability of female individuals. Data reported in chapter one show that women are generally more vulnerable for different reasons, such as the social implications, family, economic problems, etc<sup>278</sup>. Similarly, the same mechanism recurs when grooming occurs via digital platforms. For instance, it was mentioned how the practice of faking a love interest leads victims to fall into the hands of traffickers. This practice in particular is more likely to occur when the woman plays the role of the victim and the man plays the role of the recruiter<sup>279</sup>. Females are more impacted by the role of digitalisation in trafficking even in the phase of exploitation. Again, bearing in mind that those most trafficked for sexual exploitation are women, digitalisation is the basis for the dissemination of sexually oriented online content, some of which is produced through the exploitation of trafficked persons<sup>280</sup>. This issue, however, will be discussed in more detail subsequently.

## 1.2. Transportation

As mentioned above, human trafficking does not necessarily involve crossing a national border. However, whether trafficking is domestic or involves transport from a country of origin to a country of destination, the coordination of logistical activities is essential. In this context, digitalisation has greatly facilitated and expanded communication possibilities. As a result, traffickers do not need to be physically present during transport operations, which can then be conducted remotely. As well as physical presence is not necessary during the transport phase, neither is it necessary during the recruitment phase. For this reason, there is no need for an emissary to take care of this phase and to be located in the country of origin of the route<sup>281</sup>.

---

<sup>278</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 25-27

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>279</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, *European Journal on Criminal Policy and Research*, 2019, pp. 220-222

<sup>280</sup> *Ibidem*, pp. 223-225

<sup>281</sup> *Ibidem*, pp. 222, 223

Moreover, considering the fact that transport instructions can essentially be provided online, it is becoming increasingly difficult to identify the main perpetrators of trafficking crime, who tend to operate out of the field<sup>282</sup>.

Given the contribution made by digital platforms and, in particular, by communication platforms in facilitating the transport and logistical operations involved in trafficking, it is therefore possible to state that digitalisation represents an essential resource for the implementation of the transport phase of human trafficking.

### 1.3. Exploitation

Digitalisation is also an advantageous tool for the exploitation phase, which can be divided into the advertising of the services provided by the exploitation of trafficked persons, the organisation of the exploitation per se and the receipt of payments.

With regard to advertising, through digital platforms, traffickers have access to an extremely wide and diversified pool of customers and can also guarantee a more discreet approach for those who want to purchase the services provided. Traffickers can rely on a wide variety of digital tools to advertise and sell services derived from the exploitation of trafficked persons. First of all, it is necessary to mention social media, which are now the driving force behind this activity. Next, one can mention, websites for buying and selling products, classified websites, dating websites, websites specifically created to advertise trafficked persons and the Dark web, although the latter is more commonly used for the sexual exploitation of children<sup>283</sup>.

In some cases, traffickers disguise exploitative activities by hiding them behind legitimate activities to avoid detection<sup>284</sup>. However, this may not be sufficient to conceal criminal activities. In fact, traffickers often operate through the use of coded

---

<sup>282</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, p. 5-7

[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

<sup>283</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 223-225

<sup>284</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 120-122

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

language, cryptic terms and key words<sup>285</sup>. Other times, however, exploitative services are advertised through independent, specifically created websites that allow the buyer to choose the service required, as if he or she were standing in front of a shop window<sup>286</sup>.

Turning to the use of digital platforms and services for exploitation per se, there are several aspects where digitalisation can be considered an incentive for trafficking. In addition to using and selling services that will later be provided in person, traffickers can in fact acquire digital materials such as photos and videos, especially from victims of trafficking for sexual exploitation, and then distribute them upon payment<sup>287</sup>. Another widespread modality, again related to trafficking for sexual exploitation, is forced cybersex, where victims are forced to perform in front of a webcam, while the video is streamed by platforms that block the content behind a paywall, thus allowing it to be viewed worldwide only on the devices of paying customers<sup>288</sup>. Again, there are platforms with such a degree of interaction that pornographic material can be created upon request<sup>289</sup>. Stepping outside the domain of trafficking for sexual exploitation, however, it is possible that trafficked victims are exploited for online crimes, such as identity theft or fraud carried out through the use of stolen credit card data online<sup>290</sup>.

Another side of exploitation is the control of trafficked victims. Here too, digitalisation plays a relevant role. For instance, it has already been stated that blackmail through the threat of sending sexually explicit pictures to relatives and acquaintances of the victim can be used as a means of recruiting trafficked victims<sup>291</sup>. However, this same emotional blackmail can also be used by traffickers to prevent

---

<sup>285</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 223-225

<sup>286</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 120-122  
[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>287</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 223-225

<sup>288</sup> Ibidem, pp. 223-225

<sup>289</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 120-122  
[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>290</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 223-225

<sup>291</sup> Ibidem, 220-222

the victim from trying to escape or seek help. Another means of control are digital surveillance systems and localisation services that allow traffickers to always know the location of their victims. Different tools can be used for this purpose, such as video cameras, tracking devices, spyware, geolocation services offered by many companies, etc. These digital tools make it possible not only to control the victims, but also to monitor business activities in case the trafficker is located far away from the victim's place of exploitation<sup>292</sup>. In fact, traffickers can request victims to send them messages and photos to verify their work and location. Generally speaking, therefore, digital technologies can be used to threaten, give orders and communicate with victims.

Finally, the last part on exploitation concerns financial management. Obviously, if it were not for the high profits, human trafficking would have no reason to exist. Here again, digitalisation has made it easier and faster for traffickers, as there are many digital platforms through which money can be transferred instantly and with minimum risk<sup>293</sup>. Cryptocurrencies are also an alternative method of payment, often used by criminal activities as they operate independently from banking systems and are therefore excluded from government controls. Although cryptocurrencies are not yet widely used for trafficking activities due to the instability of their value, they still represent a means to facilitate trafficking<sup>294</sup>.

To summarise what has been said, digitalisation has greatly facilitated the activities involved in human trafficking, in particular by providing the possibility to carry out these same activities at a distance and towards an almost worldwide audience. In fact, it has been seen that in the recruitment phase, thanks especially to social media and other digital platforms, personal information can be obtained to make the solicitation of victims more functional or deceptive advertisements can be published on a global scale to lure as many victims as possible. In the transport phase, it was explained how communication platforms facilitate transport activities. Moreover, the possibility of exploiting victims online lowers transport costs, as they do not

---

<sup>292</sup> Ibidem, 223-225

<sup>293</sup> Ibidem, 223-225

<sup>294</sup> GRETA, *Online and technology-facilitated trafficking in human beings*, Council of Europe, March 2022, p. 8

<https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c>

necessarily have to be transported from one country to another. By lowering costs and eliminating the problem of illegal border crossings, an important entry barrier is removed, allowing even smaller and less organised groups of traffickers to enter the business<sup>295</sup>. Finally, the benefits of digitalisation in the exploitation phase were analysed. Online exploitation through forced content creation and exploitation for online fraud are now widely explored and profitable terrain, given the possibility of involving an extremely wide and diverse range of customers and an extended panorama of victims to defraud.

Besides being a challenge to human trafficking, why is digitalisation particularly a challenge to trafficking in women? As has already been stated, the use of social media and other digital platforms for the recruitment phase seems to have been more pervasive in trafficking for sexual exploitation, of which women and girls have been seen to be the major victims. Furthermore, in addition to children, female individuals appear to be more vulnerable to online grooming due to greater economic, family and social uncertainty and due to online recruitment strategies, which appear to be aimed at grooming women<sup>296</sup>. An example of these is the “lover boy” strategy in which the trafficker establishes a loving and trusting relationship with the victim, and then blackmails her and establishes control over her<sup>297</sup>. As interchangeable as this strategy may be between genders, it is clear that it was created and is more likely to work when placed in the dichotomy of the man as the baiter and the woman as the victim. As for the exploitation phase, it was seen that the use of digital platforms and technology in general has become an integral part of this phase and has led to the introduction of new resources through which traffickers can expand their activities. The use of technology is once again concentrated in the area of trafficking for sexual exploitation, which, as we have already seen, is still the type of exploitation that mainly involves female individuals. In fact, according to the UNODC 2020 report on trafficking in human beings, the clients most easily reached

---

<sup>295</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 220-222

<sup>296</sup> Ibidem, pp. 123-125

<sup>297</sup> GRETA, *Online and technology-facilitated trafficking in human beings*, Council of Europe, March 2022, pp. 7-9

<https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c>



by traffickers by advertising victims' services through digital platforms are buyers of sex or pornographic material<sup>298</sup>. As far as exploitation per se is concerned, it is understandable that the most profitable use of new technologies concerns the sale of sexually explicit material or the streaming upon payment of sexual oriented content. These new ways of exploiting sex trafficking victims make it possible to receive money from an extremely wide audience. In this reality, a vast number of individuals pay to see the same content produced in a single "work" session. In this way, traffickers are able to maximise profits while minimising effort.

In light of what has been said, therefore, it is clear that digitalisation does not only benefit trafficking in women, but human trafficking in general. Nonetheless, it is specifically women who are most affected by the problem due to their greater vulnerability to online grooming and their wider correlation than other categories with trafficking for sexual exploitation, which is the form of trafficking most advantaged and influenced by the development of new technologies and digital platforms, first and foremost social media.

## 2. The role of digitalization in combating human trafficking

As previously seen, digitalisation has transformed several aspects of human trafficking, such as the way traffickers, victims and clients or traffickers themselves are connected. Digitalisation offers traffickers the possibility to use online platforms as a means to recruit and exploit their victims, allowing them to operate under conditions of pseudo-anonymity. Nevertheless, covering or completely eliminating their traces is almost impossible. Indeed, although these traces are not always recognisable and interpretable as signs of trafficking, they increase the visibility of traffickers' activities. Digitalisation offers several opportunities for law enforcement agencies to implement anti-trafficking activities, both in terms of crime detection and in terms of identification and monitoring of traffickers and their victims. Indeed, the interest in exploiting new technologies to fight trafficking crime is increasing<sup>299</sup>.

---

<sup>298</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 120-122

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_15jan_web.pdf)

<sup>299</sup> QC F. G., Muraszkiewicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, *Computer Law & Security Review*, vol. 32, 2016, pp. 205-217

In terms of crime detection, there are several strategies that can be used. One of these is data mining, namely the search for patterns among large amounts of data. With this strategy, it is possible to identify, through text and image analysis, advertisements that can potentially serve to recruit or promote trafficking victims. For instance, the writing of ads in the third person singular or first person plural or the use of words such as “new in town” can be warning signs when placed within online ads. It is clear that an aseptic analysis of the ads by a data processor cannot be considered exhaustive and therefore requires verification and in-depth analysis by experts in the field. In fact, the human component remains necessary, since the more the technologies for detecting illegal actions evolve, the more criminals adapt their actions to these evolutions. For instance, irregular formatting of the text or the inclusion of many special characters, too much punctuation, or numbers written out in letters can make the ad difficult for a data processing programme to read. However, once an advertisement has been categorised as a possible trafficking ad, modern technologies are able to link the data obtained, such as phone numbers, e-mails, etc., and group together very similar ads or ads that have the same author or advertise the same victim<sup>300</sup>.

Another type of analysis is that based on image processing. Some programmes can in fact identify faces in online advertisements and estimate, for instance, whether they are minors or whether they are trafficking victims who have already been identified and registered beforehand. In addition to facial recognition, digital processing of the victims' surroundings can also be a valid approach. Some programmes are in fact able to compare rooms or environments in the background of the photos with images of hotels, accommodation or places in general on the web<sup>301</sup>.

These strategies have, however, several limitations. First of all, it is extremely difficult to distinguish between advertisements, messages or websites that advertise services derived from regular activities (such as escort, dating or massage sites), from the same advertisements or sites that advertise the same services, but derived from illicit activities. The same concept applies to the distinction between advertisements of real

---

<sup>300</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, *European Journal on Criminal Policy and Research*, 2019, pp. 225-229

<sup>301</sup> *Ibidem*, pp. 225-229

job offers from job advertisements that will then lead the victim to be trafficked<sup>302</sup>. Moreover, the transition from the identification of trafficking operations to the identification of traffickers is also rather complex. Indeed, tracing or identifying the authors of the various advertisements can be problematic because, as mentioned above, every step taken by law enforcement in using technology for anti-trafficking operations corresponds to the same step taken by traffickers in using more sophisticated technologies, new digital platforms little known to law enforcement and unusual online recruitment and exploitation strategies<sup>303</sup>.

As stated above, digitalisation makes an effective contribution at the victim exploitation stage, including the control of traffickers over victims through, for instance, localisation tools. Regarding the identification phase of trafficking offenders, it is possible to use these same localisation tools that are nowadays present by default in many applications, social media or in mobile phones themselves to track traffickers<sup>304</sup>. Moreover, obtaining access of the electronic devices of victims or traffickers themselves opens the door at gaining a huge amount of information, such as names, bank accounts, online transactions, platforms used for the grooming and exploitation of victims, etc. This is potentially incriminating evidence that can provide new bases on which to expand investigations into human trafficking networks. Indeed, online resources represent a repository of valuable information, from which the activities carried out by traffickers can effectively emerge. The traces left online by trafficking operations can be considered as evidence, able to support possible testimonies by victims, to allow the construction of court cases, to map criminal networks involved in the illicit activity of trafficking<sup>305</sup>.

To summarise, digitalisation has improved anti-trafficking actions in several ways. For instance, it has made it easier to acquire, store and share information on victims, once recognised as such. Moreover, there are well-established channels for victims and

---

<sup>302</sup> Ibidem, pp. 229-232

<sup>303</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, p. 4-7  
[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

<sup>304</sup> QC F. G., Muraszkievicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, *Computer Law & Security Review*, vol. 32, 2016, pp. 205-217

<sup>305</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, *European Journal on Criminal Policy and Research*, 2019, pp. 225-229

witnesses to report trafficking situations by phone or online. Again, when photos are available, metadata can help prove the dates when crimes were committed, and geo-tagging and the content of images can be used to establish the exact location of a crime. In addition, when there is only circumstantial evidence, conclusions can be drawn from a suspect's use of spyware or a fake ID to disprove his innocence and prove criminal intent. Again, flight bookings and bank statements showing money withdrawals made abroad can help prove cross-border trafficking<sup>306</sup>. These are just some of the possibilities that have been given by digitalisation to carry out anti-trafficking operations. Indeed, the fact that trafficking is extremely adaptive and multidimensional in nature multiplies the possibilities of using digital tools to fight it, as well as to prosecute it in a context where victims find it difficult to give their testimony due to psychological threats, fear of retaliation and the shame that can result from public disclosure of their personal details<sup>307</sup>.

It must also be considered, however, that the use of certain technologies, such as geolocation or activity tracking in digital platforms, may infringe on the fundamental rights of both victims and traffickers, especially in relation to the right to privacy and data protection<sup>308</sup>. Therefore, a legislative framework is needed to recognise and regulate the use of digital tools in perpetrating and combating the crime of human trafficking.

### 3. International and European Law frameworks addressing the impact of digitalization in human trafficking

As shown in the first part of this chapter, digitalisation is a means that contributes to the development of human trafficking. This is mainly through the possibility of recruiting victims from all over the world and advertising their services to an extremely wide audience, all without the need for someone to conduct this activity in person. This makes

---

<sup>306</sup> QC F. G., Muraszkievicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016, pp. 205-217

<sup>307</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, p. 4-7  
[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

<sup>308</sup> QC F. G., Muraszkievicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016, pp. 205-217

it possible to bypass certain entry barriers such as, for instance, transport costs, bribes or the costs to discourage and eliminate competition in order to gain neighbourhoods and clients to whom traffickers can sell services provided by trafficked victims.

Simultaneously, digitalisation can contribute to the capture and prosecution of traffickers, by identifying traces left online, suspicious transactions, money movements, tapping into the possibility of geolocalising traffickers, exploiting information contained in electronic devices that law enforcement agencies have come into possession of, etc.

Faced with these rapid changes, however, there has not been an equally rapid response from international or regional legislative bodies. On the one hand, there is, in fact, the lack of a delineated boundary that establishes the limits within which digital tools can be used to combat cybercrime, without violating fundamental rights, such as the right to privacy. On the other hand, the recognition of the role of digitalisation by the international legal framework is minimal, as well as specific provisions to counter it.

In the following, the issue of the right to privacy that constrains the use of digital tools to counter human trafficking will be addressed. Subsequently, those international and European legal instruments that recognise the role of digitalisation in facilitating trafficking will be analysed, examining, when present, the specific provisions drafted in order to guide Member States in their anti-trafficking function in the light of the new developments brought about by the role of digitalisation.

### 3.1. Between the right to privacy and cybercrime investigation and prosecution

The right to privacy is a fundamental right within a democratic society, entitled to everyone on an equal basis. The impact of digitalisation on the fight against human trafficking raises some considerations on the balance between privacy and security. Privacy in fact means the privacy of the individual, personal data and personal communication<sup>309</sup>. Although there are no international instruments dealing with the regulation of the use of specific digital tools in the fight against trafficking that take into account the criminal nature of trafficking, there are legal instruments dealing with the regulation of the right to privacy and the use of personal data and legal

---

<sup>309</sup> OSCE, *Ensuring Human Rights Compliance in Cybercrime Investigations*, Wien, October 2013, pp. 13-20 <https://www.osce.org/files/f/documents/e/3/554901.pdf>

instruments dealing with organised crime that address the issue of the right to privacy<sup>310</sup>.

But can the right to privacy be a constraint in relation to the use of digital tools in fighting the crime of trafficking? The right to privacy is a fundamental right that, as mentioned, within a democratic society must be guaranteed to all individuals on an equal basis. However, the use of digital tools in the fight against trafficking can be particularly intrusive and undermine this right, for instance when trying to locate traffickers or collecting their computer data. The right to privacy includes indeed the protection of private messages, phone calls and e-mails and the safeguard against unlawful state surveillance. Investigations of cybercrimes may create a conflict with the right to privacy when using the personal data collected; storing and processing content and browsing data; interfering with the confidentiality of communications, for example by intercepting messages and calls; performing searches and seizures; conducting surveillance operations (especially in the case of mass surveillance<sup>311</sup>), such as undercover operations to catch criminals, wiretaps, access to bank accounts, etc<sup>312</sup>. Consequently, any failure to respect the right to privacy may subsequently lead to the inadmissibility in court of evidence obtained in violation of that right, jeopardising the possibility of effectively convicting those who have committed crimes<sup>313</sup>. Indeed, states and their organs have both a positive obligation to protect the right to privacy and a negative obligation not to interfere with it<sup>314</sup>.

However, the right to privacy is not absolute, as it can be limited in certain circumstances, such as national security or the prevention of unrest and crime.

---

<sup>310</sup> QC F. G., Muraszkiwicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016, pp. 206-209

<sup>311</sup> Whereas targeted surveillance is based on the authorisation granted following a request for preliminary suspicions, mass surveillance consists of the collection of a large amount of information, without an actual target, with the expectation of finding something suspicious among the collected data. This approach, however, completely lacks the principle of proportionality and undermines the very foundations of the right to privacy.

<sup>312</sup> Council of Europe, *Cybercrime investigation and the protection of personal data and privacy*, Strasbourg, March 2008, pp. 26-37  
<https://rm.coe.int/16802fa3a3>

<sup>313</sup> OSCE, *Ensuring Human Rights Compliance in Cybercrime Investigations*, Wien, October 2013, pp. 13-20  
<https://www.osce.org/files/f/documents/e/3/554901.pdf>

<sup>314</sup> Council of Europe, *Cybercrime investigation and the protection of personal data and privacy*, Strasbourg, March 2008, pp. 26-37  
<https://rm.coe.int/16802fa3a3>

Generally speaking, international legal instruments, in taking a position on the privacy-security dichotomy, seem to lean more towards safeguarding security, rather than the right to privacy<sup>315</sup>.

For instance, Article 8 of the previously mentioned European Convention on Human Rights (ECHR) states that every individual has the right to have his or her privacy, home and correspondence respected<sup>316</sup>. However, point 2 of the same article provides for the possibility for public authorities to suspend the fulfilment of the right to respect for private and family life in cases of necessity concerning public security, the prevention of crimes, the protection of the rights and freedoms of others, etc<sup>317</sup>. The same applies to the Charter of Fundamental Rights of the European Union, in which Article 7 provides for respect for private and family life<sup>318</sup> and Article 8 for the protection of personal data, providing that they are processed for specified purposes with the consent of the individual concerned or for other legitimate purposes provided for by law<sup>319</sup>. These legitimate purposes might consist in the prevention and suppression of a crime<sup>320</sup>. In addition to the ECHR and the EU Charter of Fundamental Rights, the right to privacy is also recognised internationally by the International Covenant on Civil and Political Rights (ICCPR), which, in Article 17, upholds the right not to be subject to unlawful or arbitrary intrusions into the right to privacy and the right to be protected from law enforcement, should such intrusions occur<sup>321</sup>. In this case, however, the possibility of not complying with this article in case public safety is compromised is not specified.

Turning to international legislative instruments relating to data protection alone, it is possible to notice, here too, a tendency to allow broader access to personal data in

---

<sup>315</sup> QC F. G., Muraszkievicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016, pp. 206-209

<sup>316</sup> ECHR, *European Convention on Human Rights*, Rome, 1950, Article 8(1)  
[https://www.echr.coe.int/documents/d/echr/Convention\\_ENG](https://www.echr.coe.int/documents/d/echr/Convention_ENG)

<sup>317</sup> Ibidem, Article 8(2)

<sup>318</sup> European Union, *Charter of Fundamental Rights of the European Union*, 2000, Article 7  
[https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>319</sup> Ibidem, Article 8

<sup>320</sup> De Vido S., *A Legal Analysis of the Contributing Factors to Trafficking in Women: Points of Strength and Weakness of the Recent Developments in Europe*, Freedom, Security & Justice: European Legal Studies, 2023, no. 1, p. 65

<sup>321</sup> United Nations, *International Covenant on Civil and Political Rights*, New York, 1966, Article 17  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

cases where national and public security and freedom of others is threatened. For instance, the European Union provides for a number of legal instruments aiming at data protection, which, however, envisage exceptions. One of these instruments is the General Data Protection Regulation (GDPR), which is aimed at protecting the fundamental rights and freedoms of persons and, in particular, the right to protection of personal data<sup>322</sup>. In Article 23 of this regulation, limitations to obligations and rights concerning the protection of personal data are specified. Once again, these limitations relate to safeguarding national security, public safety, protecting the rights and freedoms of others, “*the prevention, investigation, detection and prosecution of criminal offences [...]*”<sup>323</sup>, etc. It should be noted that this article also includes the principle of necessity and proportionality of the limitations placed on the protection of personal data<sup>324</sup>. This same principle is present within the 2018 UN Personal Data Protection and Privacy Principles, where it is argued that limitations to the right to protect personal data should be “*relevant, limited and adequate to what is necessary in relation to the specified purposes of personal data processing*”<sup>325</sup>. This principle is further complemented by the principle of a specific purpose whereby personal data must be processed for specific purposes, taking into account relevant rights<sup>326</sup>. Finally, at the level of the Council of Europe, mention can be made of the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 108). The purpose of CETS 108 is to ensure respect for fundamental rights and, in particular, the right to privacy in relation to the processing of personal data<sup>327</sup>. Again, Article 9 contains exceptions, which may be

---

<sup>322</sup> European Union, *Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)*, 2016, Article 1

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>

<sup>323</sup> Ibidem, Article 23(1)

<sup>324</sup> Ibidem, Article 23

<sup>325</sup> United Nations, *UN Personal Data Protection and Privacy Principles*, New York, October 2018, Principle 3

[https://archives.un.org/sites/archives.un.org/files/\\_un-principles-on-personal-data-protection-privacy-hlcm-2018.pdf](https://archives.un.org/sites/archives.un.org/files/_un-principles-on-personal-data-protection-privacy-hlcm-2018.pdf)

<sup>326</sup> Ibidem, Principle 2

<sup>327</sup> Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*, Strasbourg, 1981, Article 1

<https://rm.coe.int/1680078b37>



allowed in the interests of national security, public safety, the rights and freedoms of others and the suppression of criminal offences<sup>328</sup>.

As has been shown, therefore, legislative instruments on human rights or on the protection of privacy and personal data, in the dichotomy between privacy and security, tend to lean towards safeguarding security, creating the possibility of special exceptions to the fulfilment of obligations to safeguard the right to privacy. Despite this, this right still poses a constraint in the fight against human trafficking, as the lack of authorisation or non-compliance with principles such as the principle of necessity and proportionality and the principle of a specific purpose can lead to the violation of fundamental human rights and result in the inadmissibility of evidence or the invalidation of the judgment. This is confirmed by both the Budapest Convention and the jurisprudence of the European Court of Human Rights. Regarding the former, the Council of Europe Convention on Cybercrime (also called the Budapest Convention) of 2001, is considered the first international treaty concerning crimes committed with the use of the Internet<sup>329</sup>. The Convention provides specific powers concerning the collection of evidence and its use in connection with the investigation of cybercrimes. However, conditions and guarantees are also provided in order to avoid the violation of fundamental human rights. Within Article 15, the principle of proportionality, independent judicial oversight, the presence of clear grounds for the collection and use of evidence, the limitation of the scope or duration of this power, and its impact on the rights and legitimate interests of third parties are indicated as guarantees<sup>330</sup>.

The jurisprudence of the European Court of Human Rights also holds that limitations to the right to privacy must have their basis in law and must be necessary and proportionate. In practice, this means that, firstly, the legislation permitting the limitation to the right to privacy must be accessible to the affected individuals and must be clear, meaning that it must define the circumstances and conditions under which such limitations may be implemented. Secondly, in relation to the principle of

---

<sup>328</sup> Ibidem, Article 9

<sup>329</sup> OSCE, *Ensuring Human Rights Compliance in Cybercrime Investigations*, Wien, October 2013, pp. 25-33 <https://www.osce.org/files/f/documents/e/3/554901.pdf>

<sup>330</sup> Council of Europe, *Convention on Cybercrime*, 2001, Article 15 <https://www.europarl.europa.eu/cmsdata/179163/20090225ATT50418EN.pdf>

necessity and proportionality, any limitation to privacy must have a legitimate purpose and must be limited in scope to that purpose. For this reason, the presence of alternative measures less detrimental to the right to privacy must be assessed and the arbitrary application and abuse of any limitation on privacy must be avoided<sup>331</sup>. In light of the above, it can be inferred that the right to privacy can be seen as an obstacle to the fight against human trafficking implemented through the use of digital tools. This is in view of the fact that cybercrime investigations may create a conflict with the right to privacy when using personal data collected, storing and processing content and browsing data, interfering with the confidentiality of communications and conducting surveillance operations. As a consequence, as a result of the failure to respect a fundamental right such as the right to privacy, when collecting evidence, identifying perpetrators or preventing the crime, it is possible to face situations in which the evidence collected is inadmissible during the process or the perpetrators of the crime of trafficking are not convicted.

In light of this link between trafficking in human beings, the right to privacy and the protection of personal data, however, it seems that there are no international legal instruments dealing with this interaction and analysing the specific challenges that the use of digital tools in the fight against the crime of trafficking may pose to fundamental rights and vice versa. Therefore, it seems that the regulation of the interplay between trafficking, privacy and data protection can, for the time being, only take place in relation to general legal instruments concerning the right to privacy and/or data protection and in relation to legal instruments concerning the safeguarding of fundamental rights, looking for a balance between the protection of the fundamental right not to be subjected to exploitation and slavery and the protection of the fundamental right to safeguard privacy.

### 3.2. CEDAW General Recommendation no. 38

It has already been argued that in the face of the rapid changes emerging in the context of human trafficking, such as digitalisation, there has not been an equally rapid response from international bodies in creating appropriate legal instruments

---

<sup>331</sup> OSCE, *Ensuring Human Rights Compliance in Cybercrime Investigations*, Wien, October 2013, pp. 25-33 <https://www.osce.org/files/f/documents/e/3/554901.pdf>

to address the new challenges of trafficking. Recognition within international legal instruments of the role of digitalisation in trafficking is minimal, as are specific provisions to counter it.

General Recommendation No. 38 on trafficking in women and girls in the context of global migration of 2020 is one of the legal instruments that will be analysed here, which recognise and aim to counteract the role of digitalisation in trafficking.

First of all, within General Recommendation No. 38, the CEDAW Committee emphasises how the role of communication and information technologies, social media and instant messaging tools, represent a reality of trafficking in women that extends beyond the context of application of the Palermo Protocol<sup>332</sup>. Furthermore, the Committee includes the use of digital technologies in the causes that encourage trafficking. It argues, in fact, that although digital technologies can have a positive impact on society, at the same time they generate new challenges to public and national security, as they allow for the concealment of personal data of their users, for making or receiving anonymous payments, and for the recruitment of potential victims through social media, instant messaging tools and the dark web, exposing potential victims to a higher risk of being trafficked<sup>333</sup>. Furthermore, it is specified, in the light of the global pandemic from COVID-19, how in the context of a pandemic or similar emergency contexts, digital technologies constitute an even greater problem in the context of trafficking, due to increasing cyberspace surfing that amplifies the demand for sexual material online and, consequently, increases recruitment and sexual exploitation implemented through the use of technology<sup>334</sup>. With this in mind, the Committee has developed recommendations to guide States Parties in addressing the drivers of trafficking, including the use of digital technologies. Within these recommendations, it is stipulated that States shall require companies that own social media or instant messaging platforms to establish monitoring operations to limit the risks related to their use in trafficking, to identify

---

<sup>332</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*, New York, 2020, Paragraph 12

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no38-2020-trafficking-women>

<sup>333</sup> Ibidem, Paragraphs 12, 36

<sup>334</sup> Ibidem, Paragraphs 37

patterns that may lead to trafficking, and to assist competent authorities in the collection of necessary information<sup>335</sup>. In addition, states are encouraged to regulate the use of e-currencies in ways that make it possible to trace the sender, recipient and goods and services related to the transaction<sup>336</sup>. Furthermore, the Committee recommends that States cooperate internationally in the processes of collecting, processing, and sharing trafficking data<sup>337</sup> and suggests that operations be undertaken to proactively identify traffickers acting online for the recruitment and exploitation of trafficked persons, especially in light of an increased demand for online sexual materials as a result of the COVID-19 pandemic<sup>338</sup>. Finally, States Parties are urged to adopt victim-focused anti-trafficking legal mechanisms that are sensitive to the particular needs due to gender differences and that address, as comprehensively as possible, all aspects of trafficking, including the use of contemporary tools and methods such as the exploitation of digital technologies<sup>339</sup>. Although General Recommendation No. 38 on trafficking in women and girls in the context of global migration constitutes an important legal instrument and paves the way for the consideration of the digital dimension of trafficking, it should be kept in mind that its focus is not on this specific topic, but on trafficking in women and girls in the migratory context. For this reason, and in line with the nature of a recommendation, General Recommendation No. 38 does not provide Member States with specific directions to follow or the means and modalities to implement the proposed recommendations. The latter are, in fact, particularly vague and it is therefore responsibility of Member States to transpose them and adapt their national legal instruments to them or create new ones, thus establishing the means and modalities to comply with the proposed recommendations.

### 3.3. Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims

---

<sup>335</sup> Ibidem, Paragraphs 71

<sup>336</sup> Ibidem, Paragraphs 72

<sup>337</sup> Ibidem, Paragraphs 74

<sup>338</sup> Ibidem, Paragraphs 73

<sup>339</sup> Ibidem, Paragraphs 112

Another instrument to address the role of digitalisation in human trafficking is the European Commission's proposal to amend Directive 2011/36/EU. As seen above, Directive 2011/36/EU deals with the prevention and prosecution of trafficking and the protection of victims. However, it does not include any reference to the digital dimension of trafficking. On the contrary, the proposal to amend the aforementioned directive devotes an entire amendment to this issue, suggesting the amendment of Article 2 of the directive. Among the proposed changes is the addition of Article 2a, with the title *“Offences concerning trafficking in human beings committed or facilitated by means of information or communication technologies”*. The text of this article is proposed as follows:

*“Member States shall take the necessary measures to ensure that the intentional acts and means referred to in Article 2(1), and exploitation as set out in Article 2(3) shall include acts committed by means of information and communication technologies.”*<sup>340</sup>

The European Commission calls for this amendment since, following the collection of contributions from the different stakeholders, it recognises the evolution of traffickers' modus operandi towards a more technological approach that makes the threat of trafficking even more serious and difficult to combat, due to the increased difficulties in detecting the crime, tracing the relevant money flow and identifying the perpetrators. The European Commission agrees that technological advances enable traffickers to use digital technologies and, in particular, communication and information technologies to implement the recruitment, advertising and exploitation (especially sexual exploitation) of trafficked persons<sup>341</sup>. This is because online tools make it possible to exercise greater control over victims, also from a distance, and make it possible to reach a large pool of both potential victims and potential clients to whom material produced through the exploitation of victims can be distributed. The European Commission also questions the possibility that the COVID-19 pandemic, the ongoing wars and the economic recession and energy crisis resulting

---

<sup>340</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 2022, p. 20

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732>

<sup>341</sup> Ibidem, p.2

from them may lead to an increase in the demand for low-paid labour and sexual services, which could in turn fuel the phenomenon of trafficking<sup>342</sup>.

The Commission explains how the current provisions in Directive 2011/36/EU do not specify whether the intentional acts, means and forms of exploitation referred to in Article 2 should take place online or not, so it considers the digital dimension of the trafficking offence already addressed by the Directive. Nevertheless, the specificities that the use of technologies can bring to trafficking in human beings are recognised<sup>343</sup>. For this reason, the proposed amendment aims to address the new challenges arising from the increasingly digitalised context of human trafficking, while improving the criminal law response to this type of crime facilitated by the use of digital technologies<sup>344</sup>. While calling for a more specific criminal law response, the Commission does not, however, envisage a change in the level of penalties nor does it consider the use of technology in trafficking as an aggravating factor. It specifies, however, that Member States are free to allow for a stricter regime in determining penalties for the offence of trafficking committed through the use of digital technologies<sup>345</sup>. This is due to the fact that, while considering the use of technologies in trafficking as an aggravating circumstance of the crime focuses attention on the seriousness of the crime by increasing the punishment foreseen, the inclusion of the digital dimension in the determination of the crime itself focuses attention on the elements that make up the crime of trafficking and, consequently, on the specific repressive measures to counter these elements, including, precisely, the digital dimension<sup>346</sup>.

A further proposal to amend Directive 2011/36/EU concerns Article 18, Paragraph 4, which provides for the possibility for Member States to criminalise the enjoyment of services known to be derived from the exploitation of trafficked persons. The Commission found that, given the optional nature of the provision, its transposition was minimal and insufficient. For this reason, it proposes to change this provision,

---

<sup>342</sup> Ibidem, p.8

<sup>343</sup> Ibidem, pp. 12, 13

<sup>344</sup> Ibidem, p.5

<sup>345</sup> Ibidem, p.6

<sup>346</sup> De Vido S., *A Legal Analysis of the Contributing Factors to Trafficking in Women: Points of Strength and Weakness of the Recent Developments in Europe*, *Freedom, Security & Justice: European Legal Studies*, 2023, no. 1, pp. 63-65

making it mandatory. This will further harmonise the criminal justice response between the Member States. Furthermore, it supports the idea that, with the knowledge that one risks committing an offence when using services that are provided through the exploitation of trafficked persons, the demand for such services will be disincentivised and there will therefore be a reduction in demand<sup>347</sup>. This proposed amendment could be particularly relevant in trafficking involving the use of technology, where many users of (especially sexual) services derived from the exploitation of trafficked persons are further incentivised to use such services by the possibility of concealing their identities behind a screen, in the knowledge that they will not be prosecuted for using such services.

In the light of this analysis of the proposal to amend Directive 2011/36/EU, it can be seen that this proposal can be considered a good starting point to develop new legislative and non-legislative tools to fight human trafficking in its digital dimension. At the moment, however, the proposal has not yet been approved. For this reason, it will be necessary to wait further to witness, if the amendments are approved, the realisation of a more comprehensive framework of tools to fight the digital dimension of trafficking resulting from the implementation of the updated Directive 2011/36/EU.

#### 3.4. Global Compact for Safe, Orderly and Regular Migration

The third and final instrument to counter the role of digitalisation in human trafficking that will be analysed here is the Global Compact for Safe, Orderly and Regular Migration (GCM). The Global Compact is the first agreement negotiated on an intergovernmental level under the auspices of the UN Network on Migration, which is based on the search for a common approach to managing international migration. The underlying idea is that no government can effectively manage migration if it pursues this goal individually. Cooperation on a global, regional or multi-state level is essential.

---

<sup>347</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 2022, p. 15

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732>

The Global Compact has been adopted by most UN member states and defines 23 goals that comprehensively and holistically address all aspects of migration, including respect for human rights. It is accompanied by a series of actions and means of implementation, from which states have the choice to decide whether and which to implement in their national migration policy in order to best address specific national migration needs.

It should be emphasised that the Global Compact, while respecting the sovereign right of each Member State, is not a binding instrument. Nevertheless, it has its basis in established principles and instruments such as the Universal Declaration of Human Rights, international law and the 2030 Agenda for Sustainable Development<sup>348</sup>.

The Global Compact for Safe, Orderly and Regular Migration represents an important opportunity to improve the management of migration at the international level and to address the new challenges posed by this phenomenon. It should be noted that one of the 23 objectives of the Global Compact is to “*prevent, combat and eradicate trafficking in persons in the context of international migration*”. To realise this objective, Member States are encouraged to discourage the demand that leads to the exploitation of trafficked persons and to strengthen international cooperation in order to investigate, prosecute and punish the crime of trafficking in persons. In addition, special efforts are suggested to identify, assist and protect victims and, especially, women and children<sup>349</sup>.

Although a number of concrete actions to be taken to achieve this goal are later presented, the role of digitalisation in human trafficking is never mentioned. However, on World Anti-Trafficking Day 2022, the UN Network on Migration recognises both the opportunities and risks brought by the role of digitalisation in trafficking. Indeed, on the one hand, technology can facilitate the detection of trafficking crime perpetrated online and the exchange of data and information on trafficking (always respecting human rights, such as the right to privacy and data protection); on the other hand, it facilitates the recruitment and exploitation of

---

<sup>348</sup> United Nations Network on Migration, *The GCM in a Nutshell*

<https://migrationnetwork.un.org/global-compact-for-migration>

<sup>349</sup> United Nations Network on Migration, *Global Compact for Safe, Orderly and Regular Migration*, 2019, Objective 10

[https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a\\_res\\_73\\_195.pdf](https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a_res_73_195.pdf)



trafficked persons by enabling traffickers to carry out these actions online, remotely, without the need to be physically present. Recognising that one of the goals of the Global Compact is to prevent and combat trafficking in international migration and that States Parties are already incentivised to adopt policies to achieve this goal, the UN Network on Migration calls upon States to implement a series of measures to address the relationship between digitalisation and human trafficking<sup>350</sup>.

Again, the recognition of the digital dimension of human trafficking within an international instrument and the provision of concrete actions and measures to address this phenomenon is important. Nevertheless, it should also be considered that the Global Compact is a non-binding instrument, which does not oblige States Parties to act against trafficking and its digital elements. It does, however, provide a basis for the creation of binding international, regional or national legal instruments.

---

<sup>350</sup> United Nations Network on Migration, *Reclaiming Digital Spaces to Counter Human Trafficking and Protect its Victims*, July 2022  
<https://migrationnetwork.un.org/statements/reclaiming-digital-spaces-counter-human-trafficking-and-protect-its-victims>

## Chapter IV: THE IMPACT OF CLIMATE CHANGE IN WOMEN TRAFFICKING

### 1. The 1951 Refugee Convention and the notion of “Climate Refugee”

The link between climate change and human trafficking is not as straightforward as that between trafficking and digitalisation. Indeed, in global discussions, the impact of climate change is narrowly considered as an enabler of trafficking and the correlation between these two factors remains rather unexplored<sup>351</sup>. Like digitalisation, however, climate change poses a new challenge to human trafficking and, in particular, to trafficking in women.

The frequency of climate-related disasters has increased over the last 20 years, resulting in increased displacement and loss of livelihood. Increasingly high temperatures are making an ever-larger area of the planet uninhabitable. As a result, more and more people will be forced to migrate, with the risk of becoming trapped in human trafficking. In fact, it is estimated that by 2050 climate change could have such a significant impact that 216 million people will be forced to migrate within or outside their country<sup>352</sup>.

In 2023 alone, hundreds of thousands of people were affected by environmental disasters worldwide. To mention some of the environmental disasters that have occurred in recent years, it is possible to recall the floods in July 2021 that affected areas in the west of Germany, east of Belgium and the Netherlands, north-east of France, and in Luxembourg. In 2022, mention can be made of the floods that displaced 10 million people in Pakistan; the worst drought in 40 years in the Horn of Africa; and the 18 separate weather catastrophes that hit the United States, the most important of which was Hurricane Ian that hit Florida in September 2022. As for 2023, it is possible to recall the high temperatures, droughts and subsequent fires that characterised the United States and the Mediterranean region; the floods that hit the Emilia-Romagna region of Italy, which displaced 50,000 people; and storm Daniel, in Libya, as a result of which 40,000 people had to leave their homes<sup>353</sup>.

---

<sup>351</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, p. 3

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>352</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 61-62

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>353</sup> European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023, p.3

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

These types of environmental disasters cause widespread damage over a generally vast territory, forcing large groups of individuals, especially in poorer areas, to move in search of better living conditions<sup>354</sup>. Households are increasingly using migration as a technique for adapting in response to economic and environmental stresses. Slow-onset occurrences, like droughts, put livelihoods dependent on natural resources, like fisheries, livestock and agriculture, at risk under climate stress. People's ability to make a living is threatened by these occurrences, which encourages individuals to migrate in search of better economic prospects. The same is true when rapid-onset natural disasters like hailstorms or floods destroy property, crops, and arable land; in these cases, communities may not have much opportunity to adjust locally. In these circumstances, the only valid option for survival seems to be internal or external migration<sup>355</sup>. In this context, however, many individuals without the means to migrate safely consider irregular migration as the only adaptation strategy to improve their lives following an environmental disaster. And to accomplish this migration they may rely, knowingly or unknowingly, on human traffickers<sup>356</sup>. Undoubtedly, in this type of situation, traffickers find fertile ground for recruitment campaigns<sup>357</sup>, which take place throughout the entire migration process: from the point of departure where potential victims move, for example, through camps for displaced persons; to the place of destination, such as urban slums or third countries<sup>358</sup>. Although migrating does not necessarily involve being trafficked, those fleeing their homes due to natural disasters or emergencies are particularly susceptible to trafficking. People forced to migrate or displace due to emergencies are more vulnerable to human trafficking and modern slavery as they deplete their resources and become less self-confident during the journey. In fact, modern slavery, forced labour and human trafficking mainly affect

---

<sup>354</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 61-63

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>355</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 9-12

[https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

<sup>356</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, p. 9

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>357</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 61-63

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>358</sup> IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis*, Geneva, 2015, pp. 31-33

<https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>

migrants. At least three scenarios, namely slow-onset disasters, sudden-onset disasters and a combination of conflict and climate change events, show that there is an interaction between severe exploitation and climate change and/or migration caused by it<sup>359</sup>.

In the overall context of human trafficking, it is necessary to understand that among the various factors that make individuals vulnerable to trafficking is the inability to choose regular migration routes to migrate to third countries. This situation is exacerbated in the context of climate change, where those affected by environmental disasters are not subject, under international law, to any kind of recognition of a special status that would allow them to be received, exceptionally, within other countries. It is within this context that the notion of “climate refugee” and the 1951 Refugee Convention will be presented. The term “climate refugee” is currently highly contested internationally and still lacks a well-defined meaning. A similar term, that of “environmental refugee” first appeared in the global context in 1985, when Issam El-Hinnawi, an expert at the United Nations Environment Programme (UNEP), defined “environmental refugees” as: “*those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardised their existence and/or seriously affected the quality of their life*”<sup>360</sup>. This definition focuses on the compulsion of environmental refugees to leave their traditional habitat. However, it is precisely this constraint that the debate on the usefulness of the term “climate refugee” focuses on. Although this first definition was given by a UNEP expert, the UN has never provided an official legal definition of the term<sup>361</sup>. Both the relevant UN agencies and IOM, in fact, consider the term “refugee” to be inappropriate in this context, as it would entail an expansion of the refugee definition provided by the 1951 UN Refugee Convention<sup>362</sup>. Within the latter, a refugee is considered to be one who

---

<sup>359</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 9-12

[https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

<sup>360</sup> El-Hinnawi E., *Environmental Refugees*, UNEP, 1985, p. 4

<https://digitallibrary.un.org/record/121267>

<sup>361</sup> Hiraide L. A., *Climate refugees: A useful concept? Towards an alternative vocabulary of ecological displacement*, Political Studies Association, 2023, Vol. 43(2), pp. 271-272

<sup>362</sup> European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023, p.4

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country”<sup>363</sup>. From this definition it can be understood how the use of the term “refugee” brings with it a set of rights for those who are identified as such, and a set of obligations for states which, in accordance with international law, have a duty to receive such individuals, excluding the possibility of repatriation. In light of the Refugee Convention and the definition within it, according to the IOM and UNHRC, granting refugee status to those displaced by environmental disasters could weaken the 1951 Geneva Convention and could lead to the exclusion of people displaced by environmental disasters unable to show that their forced displacement was caused by climate<sup>364</sup>. Moreover, in the case of displacement due to environmental factors, one of the fundamental elements of the 1951 Convention's refugee definition, namely a well-founded fear of prosecution, would be missing. Theoretically, in fact, those displaced by climate change can still receive protection and aid from their own country, without fear of persecution, so the decision to move would result as voluntary<sup>365</sup>. In reality, the control that displaced individuals have over the decision to move varies depending on the environmental problem. In the case of environmental disasters, for example, displacement is more of a necessity than a voluntary choice because, especially in the poorest and most frequently affected areas, environmental problems are overlaid with structural problems within the country, making the management of displaced persons more complex<sup>366</sup>.

Despite these considerations, the term “climate refugee” has no legal recognition per se, as disasters or hardship related to climate change alone are not sufficient to grant displaced individuals refugee status. Furthermore, there are no legal instruments at the international level to deal with those who have been displaced by climate change. The

---

<sup>363</sup> United Nations, *Convention relating to the Status of Refugees*, Geneva, 1951, Article 1 A (2) [https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.23\\_convention%20refugees.pdf](https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.23_convention%20refugees.pdf)

<sup>364</sup> European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023, p.4

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

<sup>365</sup> Hiraide L. A., *Climate refugees: A useful concept? Towards an alternative vocabulary of ecological displacement*, Political Studies Association, 2023, Vol. 43(2), p. 272

<sup>366</sup> Bates D. C., *Environmental Refugees? Classifying Human Migrations Caused by Environmental Change*, Population and Environment, 2002, vol. 23, no. 5, pp. 468-469

absence of such instruments, however, makes people already in distress due to environmental disasters, even more vulnerable. In this context, migration, seen as an adaptation strategy, is hardly viable following regular routes. For this reason, displaced persons are often forced to migrate irregularly, relying, consciously or unconsciously, on traffickers, who, taking advantage of their vulnerable position, manage to involve them in human trafficking.

It should be emphasised that, in some cases, climate displaced persons may fall under the definition of “refugees”. This can happen when, in addition to the need to migrate for environmental reasons, other risk factors caused or exacerbated by climate change are added, making the fear of persecution within the country of departure well-founded. An example would be conflicts caused or exacerbated by climate change, such as the one that affected northern Cameroon in 2021, in which dwindling water resources due to climate change led to violence between herders and fishermen, as a result of which hundreds of people died and tens of thousands had to flee to Chad to escape the violence<sup>367</sup>. Another risk factor exacerbated by climate change that may contribute to the granting of refugee status to climate displaced persons is their involvement in human trafficking. As seen, the need to migrate due to a vulnerable situation caused by climate change may lead individuals to become involved in trafficking. This situation can be exacerbated in a context characterised by a lack of international legal instruments that recognise the need for migration of individuals affected by an environmental disaster or other climate change-related problems. In the absence of such instruments, these same individuals will have to rely on irregular migration routes, with an increased likelihood of being trafficked by traffickers or relying directly on them, consciously or unconsciously, for migration. The UNHCR Guidelines on International Protection of 2006 regarding the application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked advocate the possibility for victims or potential victims of trafficking to be granted refugee status if they meet the requirements, which must be analysed on a case-by-case

---

<sup>367</sup> UNHCR, *Climate change and displacement: the myths and the facts*, November 2023  
<https://www.unhcr.org/news/stories/climate-change-and-displacement-myths-and-facts>

basis<sup>368</sup>. Subsequently, it is recognised that trafficking is often characterised by serious forms of exploitation, including sexual slavery, prostitution and forced labour, organ harvesting, denial of medical care, etc.<sup>369</sup> These forms of exploitation constitute human rights violations that can thus be traced back to persecution<sup>370</sup>. In addition to persecution related to the exploitation phase, the Guidelines also consider human rights violations that might occur once the trafficking experience is over, especially if the victims are returned to the country of origin or the country where the exploitation took place. In fact, in this case, persecution may occur both by the traffickers themselves from whom the victim fled (this risk may increase if the victim has cooperated with the competent authorities)<sup>371</sup>, and by the family and society to which the victim returns, in the form of discriminatory, marginalising or punitive behaviour. This possibility may materialise more in cases of victims trafficked for sexual exploitation<sup>372</sup>. The possibility of victims being subjected to a new trafficking experience, which may also constitute persecution, is also considered<sup>373</sup>. Finally, the Guidelines emphasise that forced recruitment or deceptive recruitment of women and children for the purpose of sexual exploitation or forced prostitution are considered as gender-based violence and, for this reason, may be considered as persecution<sup>374</sup>.

In light of the above, the 1951 Refugee Convention constitutes an international legal instrument, which creates a link between human trafficking, migration and refugee status<sup>375</sup>. Nevertheless, it does not recognise environmental displaced persons under the refugee definition. Such status can be granted to an environmentally displaced person only in a cross-border context and in conjunction with other situations that create fear of prosecution in the country of departure. Such situations may include, for example,

---

<sup>368</sup> UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked*, 2006, Paragraph 15

<https://www.unhcr.org/fr-fr/en/media/guidelines-international-protection-no-7-application-article-1a-2-1951-convention-and-or-0>

<sup>369</sup> Ibidem, Paragraph 14

<sup>370</sup> Ibidem, Paragraph 15

<sup>371</sup> Ibidem, Paragraph 17

<sup>372</sup> Ibidem, Paragraph 18

<sup>373</sup> Ibidem, Paragraph 17

<sup>374</sup> Ibidem, Paragraph 19

<sup>375</sup> De Vido S., *A Legal Analysis of the Contributing Factors to Trafficking in Women: Points of Strength and Weakness of the Recent Developments in Europe*, *Freedom, Security & Justice: European Legal Studies*, 2023, no. 1, p. 44

conflict or involvement in trafficking. In other words, an individual vulnerable to climate change runs a greater risk of being involved in trafficking due to lack of recognition and protection by international legal instruments such as the Refugee Convention. The latter, however, provides for the possibility of obtaining refugee status after having been trafficked or if there is a reasonable fear of becoming a victim of trafficking. In both cases, however, there must be a “well-founded fear of persecution” which must be assessed on a case-by-case basis before refugee status is granted<sup>376</sup>. It thus seems that in the context of the nexus between climate change, migration and human trafficking, the action of the 1951 Refugee Convention derives from a corrective rather than a preventive interpretation of it.

## 2. The role of climate change in trafficking in persons, especially women

To fully understand the impact of climate change on human trafficking, extensive research is still needed. However, several cases show how weather-related natural disasters can increase the danger of human trafficking. In the Philippines, for example, Typhoon Haiyan caused 6.300 deaths and the displacement of 4.4 million people in 2013, mainly in the Eastern Visayas region. Damage to agricultural and fishing industries resulted in an estimated 21.000 families losing their livelihoods, and as a result, between 2013 and 2015, authorities recorded around 670 cases of trafficking in the typhoon-affected area alone, reporting an increase in cases compared to the years before the disaster. Also in 2021, Typhoon Rai displaced over 590 thousand people in the Philippines, putting 2.2 million workers at risk of exploitation. Similarly, cyclones in Bangladesh caused crop losses and much property damage, bringing a significant portion of the population below the national poverty line. Under these conditions, many were driven to forced and debt-bound labour in fisheries and factories, while many others decided to migrate, becoming targets for traffickers. In Ghana too, floods and drought have forced migration, with an increasing number of cases of child trafficking for forced marriage or labour exploitation. Finally, as a last example, in the Caribbean, hurricanes,

---

<sup>376</sup> UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked*, 2006, Paragraph 13  
<https://www.unhcr.org/fr-fr/en/media/guidelines-international-protection-no-7-application-article-1a-2-1951-convention-and-or-0>



loss of employment opportunities, rising sea levels and biodiversity degradation expose coastal communities to the risk of being trafficked or involved in trafficking. Many migrate to North America and Europe for better economic opportunities, facing the possibility of falling into the hands of traffickers. Others engage in trafficking and smuggling as a resource to generate income<sup>377</sup>.

Within this section, the connections linking climate change to human trafficking will be constructed. First, the role of climate change on the drivers of trafficking will be analysed. Next, a narrower overview of the topic will be presented, exploring in detail the causes that lead to women and girls increased vulnerability to trafficking stimulated by climate change.

### 2.1. The influence of climate change on trafficking driving factors

Climate change can affect people's lives by causing, intensifying or accelerating both slow processes of environmental erosion and sudden events. Both can be caused by a change in climate per se, but also by inadequate practices in dealing with the climate crisis or by illegal practices that damage the environment. For example, in relation to climate change, the latter leads to a rise in sea level, which in turn can cause both sudden events such as flooding and slow processes such as the submergence of islands or coastal erosion. With regard to illegal or inappropriate activities in response to the climate crisis, industrial activity, especially if resource-intensive, and environmental crimes, such as deforestation or illegal waste disposal, can exacerbate the effects of global warming.

Currently, a large part of the world's population already suffers from water scarcity for at least part of the year. In addition, ocean acidification and warming, desertification and soil erosion are causing a growing degree of food insecurity, affecting the health of a segment of the world's population and causing deaths related to sudden and extreme weather events<sup>378</sup>.

---

<sup>377</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 60-63

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>378</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 13-14

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

Climate change therefore causes an increase in the vulnerability of individuals living in affected areas, eroding their livelihoods and causing poverty or exacerbating possible pre-existing situations of poverty. These conditions of vulnerability, combined with a gap between labour supply and demand, increase the use of dangerous coping strategies and risky behaviour by affected populations. These coping strategies and risky behaviours may consist of turning to traffickers to migrate or to find an employment, being exposed to the risk of being involved in human trafficking and the types of exploitation and abuse associated with it<sup>379</sup>. Moreover, in addition to bringing conditions of vulnerability in itself, climate change can be seen as a “threat multiplier”<sup>380</sup>, as it can exacerbate situations already causing displacement such as economic crises, conflicts and persecution based on identity discrimination<sup>381</sup>.

In the following, the driving factors of human trafficking will be outlined, focusing on the influence of climate change on them. Firstly, it has already been mentioned that the main driver of trafficking is demand. Demand is stimulated, on the one hand, by the need for large numbers of cheap, unskilled workers; on the other hand, by vulnerable individuals who are willing to provide this kind of work or who are tricked and forced into doing it. In relation to climate change, the latter may cause environmental disasters or simply lead to adverse weather conditions that may result in people having to stop their work activities, especially those related to natural resources, such as agriculture or fishing. This may result in a desperate search for another job that provides income. However, the desperation and general involvement of a large segment of the population leads to affected individuals having low bargaining power and becoming more easily involved in trafficking and forms of

---

<sup>379</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, pp. 3-5

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>380</sup> International Crisis Group, *Eight Priorities for the African Union in 2022*, February 2022

<https://www.crisisgroup.org/africa/african-union-regional-bodies/b-177-eight-priorities-african-union-2022>

<sup>381</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, p. 14

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

exploitation<sup>382</sup>. In addition to increasing the vulnerability of affected individuals, extreme weather events can also generate demand for labour, usually for reconstruction efforts. This may result in the displacement of labour, most likely from the agricultural sector to the construction sector. As mentioned above, however, the bargaining power of workers is not significant, and work is not always available in the more rural areas where the agricultural sector was presumably concentrated. This implies a greater risk of being trafficked and being subjected to forms of exploitation<sup>383</sup>. It should also be remembered that when there is a concentration of a large segment of the population in a given place, this increase in population density also leads to an increase in the entertainment services offered, such as those resulting from sexual exploitation<sup>384</sup>.

Besides demand, poverty is also one of the main motivations that can lead to human trafficking. Extremely poor locations can lead individuals and families to be more enticed with false promises of better living conditions or well-paying jobs, making them accessible targets for dishonest traffickers<sup>385</sup>. Poverty exacerbated by climate change can result from loss of jobs and/or livelihoods, indebtedness and food insecurity<sup>386</sup>. This is corroborated by the fact that the poorest people are generally the same as those who are most dependent on activities related to the use of natural resources, who are most likely to be affected by natural disasters or other environment-related damage. This, on the one hand, results in greater attractiveness to the offers of traffickers, who promise well-paid jobs. On the other hand, they force

---

<sup>382</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 33-38

[https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

<sup>383</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 18-19

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>384</sup> Vlachová M., *Trafficking in Humans: The Slavery of Our Age*, Connections, vol. 4, 2005, pp. 7-9

<http://www.jstor.org/stable/26323192>

<sup>385</sup> UNODC, *Toolkit to Combat Trafficking in Persons*, 2008, pp. 423-426

[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

<sup>386</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 33-38

[https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

those affected into debt<sup>387</sup>. However, the continuous loss or low productivity of crops, again due to climate impacts, makes it extremely difficult to repay the debt. This can lead to debt bondage<sup>388</sup>, which consist in a manipulation of consent, through which traffickers lend money to affected individuals or families to pay debts or to pay for the intermediary services directly offered by the traffickers. When debtors are no longer able to repay the amount of money owed, they are trapped in a cycle of debt-based exploitation<sup>389</sup>.

The lack of access to adequate education is also a major contributor to the risk of becoming involved in human trafficking. Without the empowerment that comes with education and knowledge, people may not be able to recognise the possible traps of traffickers or access better and safer options, which puts them at risk of falling victim to these criminals<sup>390</sup>. In the context of environmental disasters, lack of adequate education may be caused by inaccessibility to school facilities or inability to go to school due to catastrophic weather events or due to poverty generated by such events or other environmental damage. Moreover, low literacy rates have a significant impact on the region's human resource development. Young people who lack schooling have fewer employment options outside of the natural resources industry. Consequently, the majority of men and women in the interested area are limited to employment as unskilled labourers in agricultural or associated sectors<sup>391</sup>, which puts them at greater risk of losing their livelihoods in the event that environmental damage worsens.

The phenomenon of trafficking is also linked to political instability and inadequate legislation. Human traffickers can ruthlessly take advantage of the power vacuums and lack of law enforcement that emerge from weak or non-existent rule of law and

---

<sup>387</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 13-16

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>388</sup> Ibidem, pp. 33-38

<sup>389</sup> Ibidem, pp. 13-16

<sup>390</sup> UNODC, *Toolkit to Combat Trafficking in Persons*, 2008, pp. 423-426  
[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

<sup>391</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 33-38

[https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wr.d.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

unstable administrations<sup>392</sup>. In climate-vulnerable countries, one may see more limited criminal justice systems and government policies and weaker social protection mechanisms. In a context where government has a more limited financial and institutional capacity, people affected by natural resource depletion or environmental disasters may rely on less or no government assistance to deal with the consequences of climate change<sup>393</sup>. Indeed, social protection programmes can help make vulnerable households more resilient in coping with the impact of climate change by creating a safety net that provides adequate shelter, health care, food, justice and the means to diversify their livelihoods in the event of climate crises, for example by offering decent employment opportunities or mediating to provide occupations that match the skills of vulnerable individuals. People, particularly women and girls, are vulnerable to exploitation when these supports are lacking or insufficient<sup>394</sup>. A further consideration is whether a trafficked person returns or is returned to a country affected by a crisis<sup>395</sup>, including an environmental one. A country with a lack of social protection policies for individuals and families affected by climate change is unlikely to be able to facilitate the reintegration of a trafficked person and it will be even more difficult to prevent the victim from being subjected to the risk of re-trafficking. The situation is even more complex when a trafficked person returns from a country affected by a climate crisis to his/her country of origin, which is also in a crisis situation. In this context, it is possible that the situation may not even be classified as a case of trafficking, thus eliminating the possibility for the victim to receive assistance or to be referred to specific facilities<sup>396</sup>.

---

<sup>392</sup> UNODC, *Toolkit to Combat Trafficking in Persons*, 2008, pp. 423-426 [https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

<sup>393</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 13-16 [https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>394</sup> Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022, pp. 33-38 [https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

<sup>395</sup> IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis*, Geneva, 2015, p. 12 <https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>

<sup>396</sup> *Ibidem*, p. 12

Finally, places affected by armed conflicts or natural disasters become sensitive centres for trafficking activity. Traffickers opportunistically take advantage of the conditions of vulnerability, chaos, displacement and social disintegration caused by wars and civil unrest, which often result in an increase in human trafficking<sup>397</sup>. Conflicts may in fact rise as a result of climate change. However, it should also be emphasised that climate change is hardly the only cause. Contextual variables, including socioeconomic circumstances, political, and governmental aspects, interact and are crucial in converting the threat of climate change into conflict<sup>398</sup>.

In conclusion, we have seen how climate change can exacerbate the causes that lead to human trafficking. However, it should be considered that climate change may itself be a cause that can lead to trafficking. Following a climate disaster, there is a high likelihood of displacement, which provides traffickers with an opening to operate and take advantage of the affected parties. Many internally displaced people who believe that irregular migration is their only chance to pursue better opportunities may turn to human traffickers for help, placing them at risk of many of the exploitations commonly associated with trafficking, including forced labour, sexual exploitation, forced marriage and organ removal. In addition, there is a significant risk of human trafficking in camps built to house those uprooted by natural catastrophes. These settings draw illicit activity and may become sites for human trafficking. Affected families or people may also occasionally work with traffickers in order to obtain money. In addition to catastrophic and unforeseen climatic events, the increasing amount of trafficking is also linked to the gradual erosion of natural resources. People whose livelihoods depend on natural resources and who are impacted by climate change may take action to diversify their incomes and adapt. One of these strategies is migration, which suggests that gradual occurrences may force people to migrate. As has already been observed, this may result in human trafficking, particularly if affected individuals seek out illicit migration routes. In both cases, greater desperation can drive impacted communities into the hands of criminals and even

---

<sup>397</sup> UNODC, *Toolkit to Combat Trafficking in Persons*, 2008, pp. 423-426 [https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

<sup>398</sup> UNFCCC, *Conflict and Climate*, July 2022

<https://unfccc.int/news/conflict-and-climate#:~:text=The%20evidence%20is%20clear%20that,climate%20change%20into%20conflict%20risks>

work with them in the case of both environmental disasters and slow-onset events. Examples of this include men selling their spouses or other female relatives, or parents selling their kids for money to face the losses brought on by climate change<sup>399</sup>.

## 2.2. Women's increased risk of exposure to trafficking as a result of climate change

To fully comprehend how climate change affects men, women, children, and girls differently and how it relates to human trafficking, additional studies are required. Women and households headed by women are generally more susceptible to human trafficking, together with children who are left homeless or orphaned after natural catastrophes<sup>400</sup>. Even in the more specific context of trafficking in women, climate change can act as a risk multiplier. Women's mortality is typically considerably higher than men's in natural disasters, and women's poverty rises in areas that are vulnerable to disasters<sup>401</sup>. According to a study conducted by UNICEF, migration and displacement caused by climate change increases vulnerability to violence, exploitation, and abuse, as well as family member separation. During and after catastrophic weather events, girls are more vulnerable to violence and exploitation, including physical and sexual abuse as well as human trafficking. When gathering food, water, and firewood, as well as when residing in makeshift shelters or refugee camps, these risks are increased. Additionally, there may be a higher chance of child marriage among families experiencing financial difficulties brought on by climate change<sup>402</sup>.

It has already been seen how extreme or sudden or slow-onset weather events can lead to the migration, regular or otherwise, of large numbers of people to seek employment in order to obtain the necessary economic resources. Although, as

---

<sup>399</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, pp. 3-5  
[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>400</sup> Ibidem, p. 5

<sup>401</sup> United Nation, *Trafficking in women and girls: crises as a risk multiplier - Report of the Secretary-General*, New York, August 2022, Paragraph 18  
<https://documents.un.org/doc/undoc/gen/n22/462/45/pdf/n2246245.pdf?token=hi9AETuBcYf6MByBUj&fe=true>

<sup>402</sup> UNICEF, *Are climate change policies child-sensitive?*, December 2019, pp. 6-7  
<https://www.unicef.org/globalinsight/media/646/file/are-climate-change-policies-child-sensitive-2019.pdf>

mentioned above, population concentration in a given place also causes an increase in entertainment services that are more often provided by women, high levels of labour migration mostly concern the male population. This does not mean that women are safe from exploitation and trafficking. First of all, they may indeed be trafficked and exploited for the provision of the aforementioned entertainment services in the destination areas of the migration flow or elsewhere. Moreover, the departure of many male heads of households makes the female-headed family model quite common. This type of family model, however, is more prone to face greater stigmatisation, which may in turn cause greater difficulty in accessing the labour market, thus rendering the entire family deprived of forms of livelihood, in a precarious position, and thus vulnerable to trafficking and its forms of exploitation<sup>403</sup>. Another consequence of the migration of the head of the household may be the fostering of the women and children of that household by family members with a lower degree of parentage. The latter could use the women's and children's trust in a family member to deceive them and sell them to traffickers<sup>404</sup>. Indeed, as stated above, men could sell their spouses or other female relatives, and parents could sell their kids for money to face the losses brought on by climate change<sup>405</sup>. Moreover, in a displacement context, patriarchal norms tend to be reinforced to defend the status quo. Furthermore, women, who are often entrusted with the collection of drinking water or other natural resources necessary for the survival of the rest of the family, are often forced to travel longer distances, thus increasing the risk of being abused or kidnapped or seduced by traffickers along more isolated routes<sup>406</sup>. Another element to consider is the possibility of migration as an adaptation strategy following a climate disaster. Safe migration, however, requires a certain financial availability and resources that people affected by an environmental disaster may take

---

<sup>403</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 13-16

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>404</sup> Ibidem, pp. 29-32

<sup>405</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, pp. 3-5

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>406</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 29-32

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)



a long time to obtain. This is even more complex for women who, especially in poorer areas, may not have economic resources of their own. This leads to the consideration of irregular migration routes, which increase the risk of involvement in human trafficking<sup>407</sup>.

To conclude, recent natural disasters, such as cyclones, floods, and other catastrophic weather events have conclusively shown how climate change makes women and girls more susceptible to human trafficking. For example, in 2009, after Cyclone Aila hit Bangladesh, the International Organisation for Migration (IOM) conducted a study that revealed families headed by women to be especially susceptible to human trafficking and its associated forms of exploitation<sup>408</sup>. Comparably, the 2015 earthquake in Nepal, which devastated two-thirds of the population, increased the number of incidents of women and girls being trafficked<sup>409</sup>.

### 3. International law and climate change: acknowledging the nexus between climate change, migration and human trafficking

As shown in the first part of this chapter, climate change is a phenomenon that can be considered a risk multiplier, which may contribute to the development of human trafficking. This is mainly due to the increased vulnerability to which individuals affected by a natural disaster, whether sudden or slow-onset, are subjected. However, not only can climate change itself contribute to trafficking in various ways including through the displacement of large numbers of individuals, but it can also be seen as a phenomenon that exacerbates pre-existing situations and the driving factors that lead to the activation of the trafficking mechanism. For example, it has been seen how climate change can lead to an increase in poverty, more difficult access to education, an exacerbation of conflict situations or other crisis circumstances, and a worsening of political stability and consequent support policies. All this, considering that women are generally the most vulnerable to the phenomena resulting from climate change. The close correlation between human trafficking and migration was also presented. Indeed, migration,

---

<sup>407</sup> Ibidem, pp. 12-16

<sup>408</sup> IOM, *Assessing the Evidence: Environment, Climate Change and Migration in Bangladesh*, 2010, pp. 21-23

[https://publications.iom.int/system/files/pdf/environment\\_climate\\_change\\_bangladesh.pdf](https://publications.iom.int/system/files/pdf/environment_climate_change_bangladesh.pdf)

<sup>409</sup> Plan International UK, *The trafficking of girls and young women in Nepal*, 2019, pp. 3-5

<https://plan-uk.org/file/plan-trafficking-report-nepal-v3pdf/download?token=TkBnPz5O>

especially when it takes place in a context of vulnerability such as displacement due to an environmental disaster, can easily turn into trafficking, especially when migrants are not granted a status, such as refugee status, which facilitates them to migrate more safely through legitimate routes. Traffickers may in fact act during any stage of migration, especially if irregular, involving migrant individuals in trafficking, whether they are aware of it or not.

The correlation between migration and trafficking recognised at the international legal level has already been presented with the introduction of the 1951 Convention relating to the Status of Refugees. This section will present other international legal instruments that recognise the correlations between climate change and migration and between migration and trafficking or that directly recognise the role of climate change on human trafficking. However, it should be noted that the direct recognition of the role of climate change on trafficking by the international legal framework is extremely limited, as are the specific provisions to counteract it. It should also be noted that the limited recognition should be seen in light of the fact that climate change is not yet unanimously credited globally and legal efforts to combat it are struggling to establish clear targets and specific provisions to achieve them. Generally speaking, however, the trend in international legal instruments seems to be to try to create a common strategy to solve the problem at its root, for instance by minimising climate change, or to regularise assistance interventions, understood as humanitarian aid. In contrast, the focus on the management of displaced persons or forced environmental migrants<sup>410</sup> following a disaster, whether sudden or slow-onset, is insubstantial<sup>411</sup>.

### 3.1. The role of the UNFCCC and the Nansen Initiative

---

<sup>410</sup> Following the definition given by Bogumil Termiski in his study “Towards recognition and protection of forced environmental migrants in the public international law. Refugee or IDPs umbrella?”, forced environmental migrants are “*people who have to abandon their homes in connection with worsening environmental conditions. They are forced to leave because of gradual and often irreversible degradation of environment, with only limited opportunity to return to their homes. The causes of such displacements include: droughts, coastal deterioration, deforestation, etc.*”.

<sup>411</sup> European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023, pp. 2-3  
[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

One of the main instruments that have contributed to the identification of the climate change problem is the United Nations Framework Convention on Climate Change (UNFCCC). The UNFCCC came into force in 1994, following its approval at the United Nations Conference on Environment and Development. It represents an important turning point in the international negotiations held with the aim of finding solutions to combat climate change<sup>412</sup>. Every year, the UNFCCC holds a Conference of the Parties (COP) under its auspices. In 2010, during the COP 16 in Cancun, non-binding provisions were introduced, through which States Parties were encouraged to adopt “*Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels*”<sup>413</sup>. This is an important recognition of the role of climate change in causing displacement, migration and relocation; a recognition that has given rise to subsequent initiatives. For example, the reason why multiple governments launched the Nansen Initiative and its follow-up, the Platform on Disaster Displacement, in the years immediately following Cancun may have been related to this recommendation<sup>414</sup>. Launched by Switzerland and Norway in 2011, the Nansen Initiative is a bottom-up, state-led consultation process aimed at reaching an agreement on the creation of a protection agenda that addresses the needs of individuals displaced across international borders in the context of natural disasters and the consequences of climate change. The main objective of the Nansen Initiative is to help States come to an agreement on fundamental principles that will safeguard internally displaced persons in the event of natural disasters, including those related to climate change. In October 2015, during a Global Consultation, the Nansen Initiative launched the Nansen Initiative Agenda for the Protection of Transboundary Displaced Persons in the Context of Disasters and Climate Change. Following this, the Nansen Initiative

---

<sup>412</sup> United Nations, Framework Convention on Climate Change  
<https://unfccc.int/>

<sup>413</sup> UNFCCC, *Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010 – Part one: Decisions adopted by the Conference of the Parties*, 15 March 2011, Article 14 (f)  
<https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

<sup>414</sup> Sciacalunga G., *International Law and the Protection of “Climate Refugees”*, Palgrave Macmillan, 2020, pp. 103-104

dissolved and was replaced by the Platform on Disaster Displacement<sup>415</sup>. Within the Agenda, States Parties are reminded of the human rights to be safeguarded with regard to individuals displaced by environmental disasters. In particular, in Paragraph 62, states are encouraged to take into consideration the problems that displaced persons may face in the event of a disaster, stating among other things that “*women and children in particular may face a heightened risk of trafficking and exploitation*”<sup>416</sup>.

More recently, the legacy of COP 16 was continued in Paris in 2015 from the Paris Agreement. The Paris Agreement is an international treaty adopted at COP 21 in Paris. It is a legally binding instrument, which entered into force in November 2016, aiming at the overall goal of maintaining “*the increase in the global average temperature to well below 2°C above pre-industrial levels*”<sup>417</sup> and pursuing the goal of containing “*the temperature increase to 1.5°C above pre-industrial levels*”<sup>418</sup>. For the first time, all nations come together under a legally enforceable commitment to fight climate change and adapt to its repercussions. This renders the Paris commitment a historic step forward in the international climate change process<sup>419</sup>. Although the issue of displacement was not included in the body of the Paris Agreement, it was addressed in the “Loss and damage” section of the non-binding Preliminary Decision. This section calls for the creation of a task force to deal specifically with displacement caused by climate change, with the objective of “*developing recommendations for integrated approaches to avert, minimise and address displacement related to the adverse impacts of climate change*”<sup>420</sup>. In its

---

<sup>415</sup> Platform on Disaster Displacement, *The context*

<https://disasterdisplacement.org/the-platform/>

<sup>416</sup> The Nansen Initiative, *Agenda for the protection of cross-border displaced persons in the context of disasters and climate change*, December 2015, vol. 1, Paragraph 62

[https://disasterdisplacement.org/wp-content/uploads/2014/08/EN\\_Protection\\_Agenda\\_Volume\\_I\\_low\\_res.pdf](https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_low_res.pdf)

<sup>417</sup> United Nations, *Paris Agreement*, New York, 2015, Article 2.1(a)

[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

<sup>418</sup> Ibidem, Article 2.1(a)

<sup>419</sup> UNFCCC, *The Paris Agreement – What is the Paris Agreement?*

<https://unfccc.int/process-and-meetings/the-paris-agreement>

<sup>420</sup> UNFCCC, *Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015 – Part One: Decisions adopted by the Conference of the Parties*, New York, January 2016, Paragraph 49

[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/FCCC\\_CP\\_2015\\_10\\_Add.1.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/FCCC_CP_2015_10_Add.1.pdf)

2018 final report, the Task Force on Displacement (TFD) acknowledges that migration can be a positive element in adaptation strategies in the context of slow-onset events, but it also notes that at a critical point, where coping capacities are exhausted and a gradual process of impoverishment begins, there is a shift from voluntary migration to forced displacement. The report goes on to argue that the impoverished, as victims of slow-onset events, need protection and assistance<sup>421</sup>. In addition, reference is made to the role that disaster risk reduction, development and adaptation policies play in determining the extent of displacement and its nature<sup>422</sup>. Later that year, COP 24 was held in Katowice, Poland. In the approved recommendations, States Parties are invited to “*consider formulating laws, policies and strategies [...] to avert, minimise and address displacement related to the adverse impacts of climate change [...] taking into consideration their respective human rights obligations and, as appropriate, other relevant international standards and legal considerations*”<sup>423</sup>. In the long run, these provisions may provide a basis from which to develop measures to protect forced climate migrants<sup>424</sup>. Notably, these considerations reaffirm that nations are being challenged to confront the issue of climate migrants while keeping in mind their responsibilities under international environmental law and human rights. These duties under international law and human rights in relation to climate change show, from a theoretical-legal perspective, the necessity of developing policies and actions connected to forced climate migrants<sup>425</sup>. The protection of human rights may indeed play an important role in the management of forced climate migrants. Indeed, the host country may not deport the migrant if such deportation contributes, even indirectly, to violations of primary human rights, such as the right to life or the right not to be subjected to inhuman or

---

<sup>421</sup> Task Force on Displacement, Report of the Task Force on Displacement, September 2018, Paragraph 60 (c and d)

[https://unfccc.int/sites/default/files/resource/2018\\_TFD\\_report\\_17\\_Sep.pdf](https://unfccc.int/sites/default/files/resource/2018_TFD_report_17_Sep.pdf)

<sup>422</sup> Ibidem, Paragraph 60 (b)

<sup>423</sup> UNFCCC, *Decision -/CP.24 - Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts - Annex 1: Recommendations from the report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts on integrated approaches to averting, minimizing and addressing displacement related to the adverse impacts of climate change*, 2018, Paragraph 1 (i)

[https://unfccc.int/sites/default/files/resource/cp24\\_auv\\_ec%20wim.pdf](https://unfccc.int/sites/default/files/resource/cp24_auv_ec%20wim.pdf)

<sup>424</sup> Sciacalunga G., *International Law and the Protection of “Climate Refugees”*, Palgrave Macmillan, 2020, pp. 146-149

<sup>425</sup> Ibidem, pp. 148-149

degrading treatment. Situations where it is not possible to ensure the effective enjoyment of these rights may arise from extremely unfavourable environmental conditions. For instance, the reduction of arable land brought about by climate change may lead to the loss of livelihoods, particularly in geographically susceptible places. This could have a direct or indirect impact on the ability to exercise a person's own right to life. However, the protection of forced climate migrants under human rights requires an imminent risk for the migrant and the inability to move to other areas of the country of origin. Therefore, obtaining international protection in the case of environmental disasters, whether immediate or slow-onset, is still difficult to obtain and far from legal practice if the home territory is not yet completely uninhabitable<sup>426</sup>.

In the light of the above analysis, while more has to be done, in recent years the UNFCCC system has steadily improved to suggest that its Parties create laws and policies to address displacement caused by climate change while keeping their human rights commitments in mind. However, despite the importance of the UNFCCC's role in the possible creation of legal instruments to deal with individuals displaced by climate change and forced climate migrants, the road to addressing human trafficking in the context of climate change has not yet been taken. In relation to the Nansen Initiative, however, the latter directly makes a link between trafficking and displacement, arguing that the latter is a condition conducive to trafficking. It is, however, a voluntary initiative, which is not a legal instrument, but rather seeks to create standards of protection for those displaced by environmental disasters.

### 3.2. Global Compact for Safe, Orderly and Regular Migration

The role of the UNFCCC was seen in the recognition of the correlation between climate change and migration. Regarding legal instruments that recognise the link between climate change, migration and human trafficking, one can mention the Global Compact for Safe, Orderly and Regular Migration (GCM), already introduced in the previous chapter. It is interesting to note that the Global Compact specifically acknowledges that environmental change and global warming are significant factors

---

<sup>426</sup> Ibidem, pp. 157-163

in migration. “*Natural disasters, the adverse effects of climate change, and environmental degradation*”<sup>427</sup> is the subject of a whole section in paragraph 18, which refers to Object 2 aimed at minimising “*the adverse drivers and structural factors that compel people to leave their country of origin*”<sup>428</sup>. Most importantly, it calls on states to promote social, political, economic, and environmental conditions that allow individuals to live honourable and sustainable lives in their home countries. Therefore, the GCM identifies climate change as a major factor driving migration and urges global cooperation to better comprehend, anticipate, and manage the displacement of people brought about by abrupt and gradual natural disasters, environmental degradation, and climate change<sup>429</sup>.

In addition to recognising the relationship between climate change and migration, the Global Compact also recognises the relationship between migration and trafficking. Indeed, Objective 10 is aimed at “*prevent, combat and eradicate trafficking in persons in the context of international migration*”<sup>430</sup>. To achieve this goal, among other possible actions that can be implemented, the importance of carrying out instrumental controls on irregular migration routes is mentioned, which constitute a pool of possible victims that can be recruited by trafficking networks<sup>431</sup>. Also, in the case of the Global Compact, the recognition of the digital dimension of human trafficking within an international instrument and the provision of concrete actions and measures to tackle this phenomenon are important. However, it should again be considered that the Global Compact is a non-binding instrument, which does not oblige states parties to act against trafficking and irregular migration, including in the context of migration due to natural disasters. However, an initial recognition may provide a basis for binding international, regional or national legal instruments in the future.

---

<sup>427</sup> United Nations Network on Migration, *Global Compact for Safe, Orderly and Regular Migration*, 2019, Paragraph 18  
[https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a\\_res\\_73\\_195.pdf](https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a_res_73_195.pdf)

<sup>428</sup> Ibidem, Objective 2

<sup>429</sup> Ibidem, Paragraph 18 (h)

<sup>430</sup> Ibidem, Objective 10

<sup>431</sup> Ibidem, Paragraph 26 (c)

### 3.3. General recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate

The last legal instrument to be analysed that draws a link between climate change, migration and human trafficking is the 2018 General Recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate. The goal of this general recommendation is to emphasise the need of reducing the negative effects of climate change as rapidly as possible and to draw attention to the measures that must be taken to attain gender equality. When these goals are realised, people will be more resilient to disasters and climate change on a global scale<sup>432</sup>.

In the Preamble, it is emphasised that women and girls are more likely to experience sexual violence and exploitation during or after disasters. This type of violence can occur either in women's attempts to procure food for themselves and/or their families, or in camps for displaced persons, characterised by a lack of security, infrastructure and accessible services. In addition to sexual violence, the General Recommendation also draws attention to other forms of violence that are more likely to occur in the aftermath of a disaster, namely human trafficking, forced prostitution, domestic violence and forced marriage<sup>433</sup>. The General Recommendation goes on to argue the link between migration following an environmental disaster and trafficking. To this end, it expresses concern that migrant women, within camps, during transit, at borders and even in destination countries, are at greater risk of gender-based violence and, in particular, trafficking in persons<sup>434</sup>. In light of the above, it is recommended that States Parties *“develop policies and programmes to address existing and new risk factors for gender-based violence against women, including domestic violence, sexual violence, economic violence, trafficking in persons and forced marriage, in the context of disaster risk reduction and climate change”*<sup>435</sup>. Although General Recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate constitutes an important legal instrument and paves the way for the consideration of the correlation between climate change,

---

<sup>432</sup> CEDAW, *General Recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate*, New York, 2018, Paragraph 12

<https://documents.un.org/doc/undoc/gen/n18/068/98/pdf/n1806898.pdf?token=4V7RYmFzIchlOcdHhP&fe=true>

<sup>433</sup> Ibidem, Paragraph 5

<sup>434</sup> Ibidem, Paragraph 75

<sup>435</sup> Ibidem, Paragraph 57 (a)



migration and trafficking, it should be borne in mind that it does not focus on the specific issue of trafficking, but rather on the gender dimension in the context of climate disasters. Furthermore, in line with the nature of a recommendation, General Recommendation 37 does not provide specific directions for member states to follow or the means and ways to implement the proposed recommendations. It is therefore the responsibility of the member states to adapt national legal instruments to the proposed recommendations or to create new ones.

## CONCLUSIONS

This study was conducted with the aim of examining whether and how digitalisation and climate change play a role in human trafficking and in particular in trafficking in women. At the same time, an attempt was made to answer the question concerning the progress of the international response to these new issues by assessing whether the provisions on the role of digitalisation and climate change in the context of trafficking are sufficient within the international legal framework.

To answer these questions, a general overview of human trafficking was first presented, within which the extent and roots of trafficking were assessed, providing definitions, information, overall data and a general overview of the social, economic and political factors contributing to its growth. This was followed by a gender perspective that made clear why women are particularly at risk and disproportionately affected by trafficking.

In the second part of the research, the current international and regional legal framework to counter trafficking was presented, with the aim of introducing some of the provisions subsequently examined to see whether or not there were international legal instruments counteracting the role of digitalisation and climate change on trafficking.

In the third part of the study, the focus was on verifying whether and how digitalisation actually had an impact on trafficking and on defining the extent of the international response to this new challenge. It was thus seen how with the spread of digitalisation and, in particular, of communication platforms such as social media or instant messaging platforms, some traffickers have started to adapt their modus operandi to the new opportunities offered by digital platforms. Every day, these platforms are used to implement the different stages of trafficking, in particular those of recruitment and exploitation of victims<sup>436</sup>, with the possibility for traffickers to conduct operations remotely, without the need to move or relocate victims<sup>437</sup>. In this way, some of the most important entry barriers, such as transport costs, corruption and elimination of

---

<sup>436</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 119-128

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>437</sup> EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020, pp. 1,2

[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

competition, are eliminated<sup>438</sup>. In light of this, it can be argued that digitalisation does impact the crime of trafficking by making it easier to perpetrate. Moreover, according to the analysis provided, it is clear that digitalisation does not only favour trafficking in women, but human trafficking in general. However, it is precisely women who are most affected by this phenomenon. This is because of their greater vulnerability to online grooming, whose strategies seem to be more commonly tailored to recruit female victims<sup>439</sup>. Moreover, women have a wider correlation than other categories with trafficking for the purpose of sexual exploitation, which is the form of trafficking that is most advantaged and influenced by the development of new technologies and digital platforms<sup>440</sup>.

In addition to offering an advantage to those perpetrating the crime of trafficking, however, digitalisation can also contribute to the capture and prosecution of traffickers, by identifying traces left online, suspicious transactions, money movements; and by exploiting the possibility to geolocalise traffickers and the information contained in electronic devices in the possession of law enforcement agencies, etc. However, more training would be needed for law enforcement agencies to make them better understand the anti-trafficking strategies that can be implemented through the use of new technologies and how to implement them concretely<sup>441</sup>.

Faced with these new challenges and possibilities, however, there has been no prompt response from international or regional legislative bodies. On the one hand, there is a lack of a delineated boundary establishing the limits within which digital tools can be used to fight cybercrime, without violating fundamental rights, such as the right to privacy<sup>442</sup>. On the other hand, the recognition of the role of digitalisation by the international legal framework is minimal and insufficient, as are specific provisions to counter it. Indeed, it has been seen that although the link between trafficking in human beings, the right to privacy and the protection of personal data is clear, there seems to

---

<sup>438</sup> Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019, pp. 220-222

<sup>439</sup> Ibidem, pp. 123-125

<sup>440</sup> UNODC, *Global Report on trafficking in persons*, New York, 2020, pp. 120-122

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

<sup>441</sup> QC F. G., Muraszkiewicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016, pp. 205-217

<sup>442</sup> Ibidem, pp. 206-209

be no international legal instruments addressing this interaction and analysing the specific challenges that the use of digital tools in the fight against trafficking crime may pose to fundamental rights and vice versa. Therefore, it appears that the regulation of the interaction between trafficking, privacy and data protection can, for the time being, only take place in relation to general legal instruments concerning the right to privacy and/or the protection of personal data and legal instruments concerning the protection of fundamental rights.

Finally, three international legal instruments that explicitly address the issue of the digital dimension of trafficking were analysed, namely General Recommendation No 38, the proposal to amend Directive 2011/36/EU and the Global Compact for Safe, Orderly and Regular Migration. It has been noted, however, that the indications of the General Recommendation are particularly vague and lacking in indications of the means and modalities to be adopted in order to comply with the recommendation. It will therefore be the responsibility of the Member States to develop new legal instruments or adapt existing ones to comply with the proposed directions. In order to be able to observe these developments, it will, however, be necessary to wait further<sup>443</sup>. The proposal to amend Directive 2011/36/EU, once in force, will instead have to be transposed by the Member States within 12 months, ensuring a good starting point for the development of legislative and non-legislative instruments to counter the digital dimension of trafficking<sup>444</sup>. At present, however, the proposal has not yet been approved. For this reason, it will be necessary to wait further to witness, if the amendments are approved, the realisation of a more comprehensive framework of tools to counter the digital dimension of trafficking resulting from the implementation of the updated Directive 2011/36/EU. Finally, the Global Compact for Safe, Orderly and Regular Migration was introduced. This is an instrument that provides concrete actions and measures to address the role of digitalisation in trafficking. However, it is a non-binding instrument,

---

<sup>443</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*, New York, 2020  
<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no38-2020-trafficking-women>

<sup>444</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 2022  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732>

which does not oblige States Parties to act against trafficking and its digital elements<sup>445</sup>. Although the analysed international legal instruments are not comprehensive and sufficient to counter the digital dimension of trafficking, they contribute to the recognition that digitalisation poses a challenge to human trafficking. Moreover, they provide a good basis for the creation of international, regional or national legal instruments that address the digital dimension of trafficking more specifically.

In the fourth and final part of the research, the focus was instead on examining whether and how climate change actually impacts trafficking and on defining the extent of the international response to this new challenge. It was thus seen that the link between climate change and human trafficking is not so straightforward. Indeed, in global discussions, the impact of climate change is narrowly considered as an enabler of trafficking and the correlation between these two factors remains rather unexplored<sup>446</sup>. Like digitalisation, however, climate change does pose a new challenge to human trafficking and, in particular, to trafficking in women.

The frequency of climate-related disasters has increased over the last 20 years, resulting in increased displacement and loss of livelihood. Increasingly high temperatures are making an ever larger area of the planet uninhabitable. As a result, more and more people will be forced to migrate, with the risk of becoming trapped in human trafficking<sup>447</sup>.

As shown in the second part of this chapter, climate change is a phenomenon that can be considered a risk multiplier, which may contribute to the development of human trafficking. This is mainly due to the increased vulnerability to which individuals affected by a natural disaster, whether sudden or slow-onset, are subjected<sup>448</sup>. However, not only can climate change itself contribute to trafficking in several ways including through the displacement of large numbers of individuals, but it can also be seen as a phenomenon that exacerbates pre-existing situations and the driving factors that lead to the activation

---

<sup>445</sup> United Nations Network on Migration, *Global Compact for Safe, Orderly and Regular Migration*, 2019 [https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a\\_res\\_73\\_195.pdf](https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a_res_73_195.pdf)

<sup>446</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, p. 3 [https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>447</sup> UNODC, *Global Report on trafficking in persons*, New York, 2022, pp. 61-62 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

<sup>448</sup> United Nation, *Trafficking in women and girls: crises as a risk multiplier - Report of the Secretary-General*, New York, August 2022, Paragraph 18 <https://documents.un.org/doc/undoc/gen/n22/462/45/pdf/n2246245.pdf?token=hi9AETuBcYf6MByBUj&fe=true>

of the trafficking mechanism. For example, it has been seen how climate change can lead to an increase in poverty, more difficult access to education, an exacerbation of conflict situations or other crisis circumstances, and a worsening of political stability and consequent support policies<sup>449</sup>. All this, considering that women are generally the most vulnerable to the phenomena triggered by climate change<sup>450</sup>.

It has also been presented the close correlation between human trafficking and migration. Indeed, migration, especially when it takes place in a context of vulnerability such as displacement due to an environmental disaster, can easily turn into trafficking, especially when migrants are not granted a status, such as refugee status, which facilitates them to migrate more safely through legitimate routes. Traffickers may in fact act during any stage of migration, especially if irregular, involving migrant individuals in trafficking, whether they are aware of it or not<sup>451</sup>. The internationally recognised correlation between migration and trafficking was presented with the introduction of the 1951 Convention relating to the Status of Refugees. During this section of the chapter, the term “climate refugee” was also introduced, which is still highly contested internationally as the idea that prevails to date is that an environmental migrant has chosen to move, thus making their migration voluntary and not subject to the Refugee Convention<sup>452</sup>.

Finally, other international legal instruments were presented that recognise the correlations between climate change and migration and between migration and trafficking or that directly recognise the role of climate change on human trafficking. This analysis was carried out in the knowledge that direct recognition of the role of climate change on trafficking by the international legal framework is extremely limited, as are specific provisions to counter it. First to be analysed was the role of the UNFCCC in

---

<sup>449</sup> IOM, *The climate change – human trafficking nexus*, Geneva, 2016, pp. 3-5

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>450</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, p. 14

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>451</sup> UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023, pp. 12-16

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

<sup>452</sup> European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023, p.4

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

suggesting that States Parties create laws and policies to address displacement caused by climate change taking into account previous human rights commitments. However, despite the importance of the UNFCCC's role in the possible creation of legal instruments to deal with individuals displaced by climate change and forced climate migrants, the road to addressing human trafficking in the context of climate change has not yet been taken<sup>453</sup>. In relation to the Nansen Initiative, on the other hand, the latter directly makes a link between trafficking and displacement, arguing that the latter is a condition conducive to trafficking. It is, however, a voluntary initiative, which is not a legal instrument, but rather seeks to create standards of protection for those displaced by environmental disasters<sup>454</sup>. Also in the case of the Global Compact, the recognition of the role of climate change on human trafficking within an international instrument and the provision of concrete actions and measures to tackle this phenomenon are important. However, it should again be considered that the Global Compact is a non-binding instrument, which does not oblige states parties to act against trafficking and irregular migration, including in the context of migration due to natural disasters<sup>455</sup>. However, an initial recognition may provide a basis for binding international, regional or national legal instruments in the future. The last instrument analysed is General Recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate. Although the latter constitutes an important legal instrument and paves the way for the consideration of the correlation between climate change, migration and trafficking, it should be noted that it does not focus on the specific issue of trafficking, but rather on the gender dimension of climate-related disasters<sup>456</sup>. Furthermore, in line with the nature of a recommendation, General Recommendation 37 does not provide specific directions for member states to follow or the means and

---

<sup>453</sup> Sciaccalunga G., *International Law and the Protection of "Climate Refugees"*, Palgrave Macmillan, 2020, pp. 146-149

<sup>454</sup> The Nansen Initiative, *Agenda for the protection of cross-border displaced persons in the context of disasters and climate change*, December 2015, vol. 1  
[https://disasterdisplacement.org/wp-content/uploads/2014/08/EN\\_Protection\\_Agenda\\_Volume\\_I\\_low\\_res.pdf](https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_low_res.pdf)

<sup>455</sup> United Nations Network on Migration, *Global Compact for Safe, Orderly and Regular Migration*, 2019  
[https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a\\_res\\_73\\_195.pdf](https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a_res_73_195.pdf)

<sup>456</sup> CEDAW, *General Recommendation No.37 on gender-related dimensions of disaster risk reduction in a changing climate*, New York, 2018  
<https://documents.un.org/doc/undoc/gen/n18/068/98/pdf/n1806898.pdf?token=4V7RYmFzlchl0cdHhP&fe=true>

ways to implement the proposed recommendations. It is therefore the responsibility of the member states to adapt national legal instruments to the proposed recommendations or to create new ones.

In light of the examination, therefore, even in the case of climate change, although its influence in stimulating human trafficking has been established, once again there has been no prompt response from international legislative bodies.

In conclusion, to answer the initial questions, digitalisation and climate change do indeed play a role in facilitating human trafficking and, in particular, trafficking in women. However, the provisions in the international legal framework dealing with recognising and counteracting the impact of these two phenomena are, currently, limited and insufficient.

It is also necessary, however, to consider the limitations of this research. Indeed, the international landscape seems to have only recently realised how much digitalisation and climate change impact trafficking. This means that there are still few international legal instruments available to counter the role of these two phenomena. However, the steps that have already been taken, especially in relation to digitalisation, augur well for the creation of new legal instruments. The issue of climate change, on the other hand, is more complex. Indeed, climate change is currently one of the most divisive topics on the international scene. For this reason, it is reasonable to assume that the creation of international legal instruments that aim to counter the impact of climate change on human trafficking will have to be preceded by international agreements and common provisions that concretely deal with climate change and every aspect of environmental disasters caused by it. This will understandably render the wait longer.





## BIBLIOGRAPHY

### International and regional legislation

African Union, *African Charter on Human and Peoples' Rights*, Nairobi, 1981  
[https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf)

African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, Maputo, 2003  
[https://au.int/sites/default/files/treaties/37077-treaty-charter\\_on\\_rights\\_of\\_women\\_in\\_africa.pdf](https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf)

ASEAN, *ASEAN Convention against Trafficking in Persons particularly Women and Children*, 2015  
<https://asean.org/asean2020/wp-content/uploads/2021/01/ACTIP.pdf>

Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*, Strasbourg, 1981  
<https://rm.coe.int/1680078b37>

Council of Europe, *Convention on Action against Trafficking in Human Beings*, Warsaw, 2005  
<https://rm.coe.int/168008371d>

Council of Europe, *Convention on Cybercrime*, 2001  
<https://www.europarl.europa.eu/cmsdata/179163/20090225ATT50418EN.pdf>

Council of Europe, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw, 2005  
<https://rm.coe.int/16800d3812>

ECHR, *European Convention on Human Rights*, Rome, 1950  
[https://www.echr.coe.int/documents/d/echr/Convention\\_ENG](https://www.echr.coe.int/documents/d/echr/Convention_ENG)

European Commission, *Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 2022  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732>

European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 2012  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

European Union, *EU Charter of Fundamental Rights*, 2000  
[https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

European Union, *Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims*, 2011  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:en:PDF>

European Union, *Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)*, 2016  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>

League of Arab States, *Arab Charter on Human Rights*, 2004  
<https://www.ohchr.org/sites/default/files/Documents/Issues/IJudiciary/Arab-Charter-on-Human-Rights-2005.pdf>

Organisation of American States, *American Convention on Human Rights*, San Jose, 1969  
[https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.pdf](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf)

SAARC, *South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, 2002  
<https://www.saarc-sec.org/index.php/resources/agreements-conventions/50-saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution/file>

Task Force on Displacement, *Report of the Task Force on Displacement*, September 2018  
[https://unfccc.int/sites/default/files/resource/2018\\_TFD\\_report\\_17\\_Sep.pdf](https://unfccc.int/sites/default/files/resource/2018_TFD_report_17_Sep.pdf)

The Nansen Initiative, *Agenda for the protection of cross-border displaced persons in the context of disasters and climate change*, December 2015, vol. 1  
[https://disasterdisplacement.org/wp-content/uploads/2014/08/EN\\_Protection\\_Agenda\\_Volume\\_I\\_-low\\_res.pdf](https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_-low_res.pdf)

UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19 on violence against Women*, New York, 1992  
<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate*, New York, 2018  
<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no37-2018-gender-related>

UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*, New York, 2020  
<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no38-2020-trafficking-women>

United Nations, *Convention against Transnational Organized Crime*, New York, 2000  
<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

United Nation, *Convention on the Elimination of All Forms of Discrimination against Women*, New York, 18 December 1979  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

United Nations, *Convention on the Rights of the Child*, New York, 1989  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

United Nations, *International Covenant on Civil and Political Rights*, New York, 1966, Article 17  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

United Nations, *Paris Agreement*, New York, 2015  
[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

United Nations, *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, New York, 6 October 1999  
[https://www.ohchr.org/sites/default/files/2021-08/OP\\_CEDAW\\_en.pdf](https://www.ohchr.org/sites/default/files/2021-08/OP_CEDAW_en.pdf)

United Nations, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, New York, 2000  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>

United Nations, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, New York, 2001  
[https://treaties.un.org/doc/source/recenttexts/18-12\\_c\\_e.pdf](https://treaties.un.org/doc/source/recenttexts/18-12_c_e.pdf)

United Nations, *Protocol against the Smuggling of Migrants by Land, Sea and Air*, New York, 2000  
[https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM\\_Protocol\\_English.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf)

United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, New York, 2000  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

United Nations, *UN Personal Data Protection and Privacy Principles*, New York, October 2018  
[https://archives.un.org/sites/archives.un.org/files/\\_un-principles-on-personal-data-protection-privacy-hlcm-2018.pdf](https://archives.un.org/sites/archives.un.org/files/_un-principles-on-personal-data-protection-privacy-hlcm-2018.pdf)

UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*, New York, 2020

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no38-2020-trafficking-women>

UNFCCC, *Decision -/CP.24 - Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts - Annex 1: Recommendations from the report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts on integrated approaches to averting, minimizing and addressing displacement related to the adverse impacts of climate change*, 2018

[https://unfccc.int/sites/default/files/resource/cp24\\_auv\\_ec%20wim.pdf](https://unfccc.int/sites/default/files/resource/cp24_auv_ec%20wim.pdf)

UNFCCC, *Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010 – Part one: Decisions adopted by the Conference of the Parties*, 15 March 2011

<https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

UNFCCC, *Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015 – Part One: Decisions adopted by the Conference of the Parties*, New York, January 2016

[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/FCCC\\_CP\\_2015\\_10\\_Add.1.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/FCCC_CP_2015_10_Add.1.pdf)

UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked*, 2006

<https://www.unhcr.org/fr-fr/en/media/guidelines-international-protection-no-7-application-article-1a-2-1951-convention-and-or-0>

United Nations Network on Migration, *Global Compact for Safe, Orderly and Regular Migration*, 2019

[https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a\\_res\\_73\\_195.pdf](https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/a_res_73_195.pdf)

United Nations Network on Migration, *Reclaiming Digital Spaces to Counter Human Trafficking and Protect its Victims*, July 2022

<https://migrationnetwork.un.org/statements/reclaiming-digital-spaces-counter-human-trafficking-and-protect-its-victims>

UNODC, *Issue Paper - Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, New York, 2013

[https://www.unodc.org/documents/human-trafficking/2012/UNODC\\_2012\\_Issue\\_Paper\\_-\\_Abuse\\_of\\_a\\_Position\\_of\\_Vulnerability.pdf](https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Issue_Paper_-_Abuse_of_a_Position_of_Vulnerability.pdf)

UNODC, *Toolkit to Combat Trafficking in Persons*, 2008  
[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

UNODC, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, New York, 2006  
[https://www.unodc.org/pdf/ctoccop\\_2006/04-60074\\_ebook-e.pdf](https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf)

### Jurisprudence

ECHR, *Chowdury and others v. Greece*, Application no. 21884/15, Strasbourg, 30th March 2017  
<https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2221884/15%22%2C%22itemid%22:%5B%22001-172701%22%5D%7D>

ECHR, *L.E. v. Greece*, Application no. 71545/12, Strasbourg, 21st January 2016  
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-160218%22%5D%7D>

ECHR, *Rantsev v. Cyprus and Russia*, Application no. 25965/04, Strasbourg, 7th January 2010  
<https://rm.coe.int/16806ebd5e>

ECHR, *S.M. v. Croatia*, Application no. 60561/14, Strasbourg, 19th July 2018  
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-184665%22%5D%7D>

ECHR, *Siliadin v. France*, Application no. 73316/01, Strasbourg, 26th July 2005  
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-69891%22%5D%7D>

### Books and Articles

Azam A., Adriaenssens S. and Hendrickx J., *How Covid-19 affects prostitution markets in the Netherlands and Belgium: dynamics and vulnerabilities under a lockdown*, European Societies, 2020, vol. 23,  
<https://doi.org/10.1080/14616696.2020.1828978>

Basu S., Kirby p. and Shepherd L. J., *New Directions in Women, Peace and Security*, Bristol University Press, 2020,  
<https://doi.org/10.2307/j.ctv12sdx3t>

Bates D. C., *Environmental Refugees? Classifying Human Migrations Caused by Environmental Change*, Population and Environment, 2002, vol. 23, no. 5

Belser P., *Forced Labour and Human Trafficking: Estimating the Profits*, International Labour Office, 2005,

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081971.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081971.pdf)

Bharadwaj R., Chakravarti D., Karthikeyan N., Hazra S., Umi Daniel, Topno J., Abhilashi R., *Climate change, migration and vulnerability to trafficking*, International Institute for Environment and Development, 2022

[https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED\\_0.pdf](https://wrd.unwomen.org/sites/default/files/2022-06/20936IIED_0.pdf)

Bigio J. and Vogelstein R., *Understanding human trafficking in conflict*, Council on Foreign Relations, 2019

<http://www.jstor.org/stable/resrep21427.4>

Borg Jansson D., *Modern Slavery – A Comparative Study of the Definition of Trafficking in Persons*, Brill, 2015

Burgos C. R. and Plaza Del Pino F. J., *'Business can't stop.' Women engaged in prostitution during the COVID-19 pandemic in southern Spain: A qualitative study*, Women's Studies International Forum, 2021, vol. 86,

<https://doi.org/10.1016/j.wsif.2021.102477>

Cabras F. and Ingrassi O., *Female Migrant Street Prostitution during COVID-19 in Milan. A Qualitative Study on How Sex Workers Coped with the Challenges of the Pandemic*, Sociologica, 2022, vol. 16,

<https://doi.org/10.6092/issn.1971-8853/13344>

Cameron S. and Newman E., *Trafficking in humans: social, cultural and political dimensions*, United Nations University Press, 2007

De Vido S., *A Legal Analysis of the Contributing Factors to Trafficking in Women: Points of Strength and Weakness of the Recent Developments in Europe*, Freedom, Security & Justice: European Legal Studies, 2023, no. 1

De Vido S., *Della tratta di donne e ragazze nel diritto internazionale ed europeo: riflessioni sulla nozione giuridica di "sfruttamento sessuale" alla luce della sentenza S.M c. Croazia della Corte europea dei diritti umani*, GenIUS, 2020

De Vido S., *States' Due Diligence Obligations to Protect Women from Violence: A European Perspective in Light of the 2011 CoE Istanbul Convention*, European Yearbook on Human Rights, 2014

El-Hinnawi E., *Environmental Refugees*, UNEP, 1985

<https://digitallibrary.un.org/record/121267>

European Parliament, *The concept of 'climate refugee' - Towards a possible definition*, October 2023

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS\\_BRI\(2021\)698753\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

Forbes, *Digitization, Digitalization, And Digital Transformation: Confuse Them At Your Peril*, 29 April 2018  
<https://www.forbes.com/sites/jasonbloomberg/2018/04/29/digitization-digitalization-and-digital-transformation-confuse-them-at-your-peril/>

Gallagher A.T., *The international law of Human Trafficking*, Cambridge University Press, New York, 2010

Gaspari L., *The International and European legal framework on human trafficking: an overall view*, DEP, 2019

Hiraide L. A., *Climate refugees: A useful concept? Towards an alternative vocabulary of ecological displacement*, Political Studies Association, 2023, Vol. 43(2)

International Crisis Group, *Eight Priorities for the African Union in 2022*, February 2022  
<https://www.crisisgroup.org/africa/african-union-regional-bodies/b-177-eight-priorities-african-union-2022>

Michael B. Gerrard, *Climate Change and Human Trafficking After the Paris Agreement*, University of Miami Law Review, 2018

QC F. G., Muraszkievicz J., Vavoula N., *The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns*, Computer Law & Security Review, vol. 32, 2016

Raets S. & Janssens J., *Trafficking and Technology: Exploring the Role of Digital Communication Technologies in the Belgian Human Trafficking Business*, European Journal on Criminal Policy and Research, 2019

Sciaccalunga G., *International Law and the Protection of "Climate Refugees"*, Palgrave Macmillan, 2020

UNDP Climate Promise, *The Climate Dictionary: An everyday guide to climate change*, 2 February 2023  
<https://climatepromise.undp.org/news-and-stories/climate-dictionary-everyday-guide-climate-change>

UNFCCC, Conflict and Climate, July 2022  
<https://unfccc.int/news/conflict-and-climate#:~:text=The%20evidence%20is%20clear%20that,climate%20change%20into%20conflict%20risks.>

UNHCR, *Climate change and displacement: the myths and the facts*, November 2023  
<https://www.unhcr.org/news/stories/climate-change-and-displacement-myths-and-facts>

Vlachová M., *Trafficking in Humans: The Slavery of Our Age*, Connections, vol. 4, 2005,  
<http://www.jstor.org/stable/26323192>



Wheaton E. M., Schauer E. J., Galli T. V., *Economics of human trafficking in Special Issue on Human Trafficking*, vol. 48, International Migration, 2010,

Yusran R., *The ASEAN Convention Against Trafficking in Persons: a Preliminary Assessment*, Asian Journal of International Law, Volume 8, 2017

### Reports

Council of Europe, *Cybercrime investigation and the protection of personal data and privacy*, Strasbourg, March 2008  
<https://rm.coe.int/16802fa3a3>

European Commission, *Study on the Economic, Social and Human Costs of Trafficking in Human Beings within the EU*, Brussels, 2020  
<https://op.europa.eu/en/publication-detail/-/publication/373138c5-0ea4-11eb-bc07-01aa75ed71a1/language-en>

EUROPOL, *The challenges of countering human trafficking in the digital era*, Europol Operations Directorate, The Hague, 2020  
[https://www.europol.europa.eu/sites/default/files/documents/the\\_challenges\\_of\\_countering\\_human\\_trafficking\\_in\\_the\\_digital\\_era.pdf](https://www.europol.europa.eu/sites/default/files/documents/the_challenges_of_countering_human_trafficking_in_the_digital_era.pdf)

EUROSTAT, *Victims of trafficking of human beings up 10% in 2021*, Luxemburg, 2023  
<https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230208-2>

GRETA, *Online and technology-facilitated trafficking in human beings*, Council of Europe, March 2022  
<https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c>

IOM, *Addressing Human Trafficking and Exploitation in Times of Crisis*, Geneva, 2015  
<https://publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0>

IOM, *Assessing the Evidence: Environment, Climate Change and Migration in Bangladesh*, 2010  
[https://publications.iom.int/system/files/pdf/environment\\_climate\\_change\\_bangladesh.pdf](https://publications.iom.int/system/files/pdf/environment_climate_change_bangladesh.pdf)

IOM, *The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database*, 2010  
<https://publications.iom.int/books/causes-and-consequences-re-trafficking-evidence-iom-human-trafficking-database>

IOM, *The climate change – human trafficking nexus*, Geneva, 2016

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

OSCE, *Ensuring Human Rights Compliance in Cybercrime Investigations*, Wien, October 2013

<https://www.osce.org/files/f/documents/e/3/554901.pdf>

Plan International UK, *The trafficking of girls and young women in Nepal*, 2019

<https://plan-uk.org/file/plan-trafficking-report-nepal-v3pdf/download?token=TkBnPz5O>

UNICEF, *Are climate change policies child-sensitive?*, December 2019

<https://www.unicef.org/globalinsight/media/646/file/are-climate-change-policies-child-sensitive-2019.pdf>

United Nation, *Trafficking in women and girls: crises as a risk multiplier - Report of the Secretary-General*, New York, August 2022

<https://documents.un.org/doc/undoc/gen/n22/462/45/pdf/n2246245.pdf?token=hi9AETuBcYf6MByBUj&fe=true>

UNODC, *Global Report on trafficking in persons*, New York, 2020

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

UNODC, *Global Report on trafficking in persons*, New York, 2022

[https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

UNODC, *Policy Brief Climate, Crime and Exploitation – The gendered links between climate-related risk, trafficking in persons and smuggling of migrants*, New York, 2023

[https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC\\_Climate-TIP-SOM\\_Policy\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/GLO-ACTII/UNODC_Climate-TIP-SOM_Policy_Paper.pdf)

UNODC, *Toolkit to Combat Trafficking in Persons*, 2008

[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook%5B1%5D.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf)

### Official websites

African Union, *African Charter on Human and Peoples' Rights*

<https://au.int/en/treaties/african-charter-human-and-peoples-rights>

African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*

<https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

ASEAN, *About ASEAN*  
<https://asean.org/about-us/>

Council of Europe, *Details of Treaty No.197*  
<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=197>

Department of International Law, *American Convention on Human Rights "Pact of San Jose, Costa Rica"*  
[https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights\\_sign.htm](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm)

ECHR, *European Convention on Human Rights*  
<https://www.echr.coe.int/european-convention-on-human-rights#>

European Commission, *EU Charter of Fundamental Rights*  
[https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights\\_en](https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en)

European Union, *Treaty on the Functioning of the European Union*  
<https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>

Platform on Disaster Displacement, *The context*  
<https://disasterdisplacement.org/the-platform/>

United Nations, Framework Convention on Climate Change  
<https://unfccc.int/>

UNFCCC, *The Paris Agreement – What is the Paris Agreement?*  
<https://unfccc.int/process-and-meetings/the-paris-agreement>

United Nations Network on Migration, *The GCM in a Nutshell*  
<https://migrationnetwork.un.org/global-compact-for-migration>