

## **Protocol to prevent, suppress and punish trafficking in persons, especially women and children**

The Protocol is the only universal instrument that addresses all aspects of trafficking in persons and was adopted by the United Nations General Assembly in November 2000 along with the Convention against Transnational Organised Crime. It came into force in December 2003.

The Protocol supplements, and should be read in conjunction with, the Convention.

The opening sentence of the preamble embodies the essence of the Protocol. It asserts that “effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims”.

### **Status of Southern African states**

<b>Country</b>	<b>Status</b>
Botswana	Ratified
Lesotho	Ratified
Malawi	Ratified
Mozambique	Ratified
Namibia	Ratified
South Africa	Ratified
Swaziland	Signed
Tanzania	Ratified
Zambia	Ratified
Zimbabwe	Non-signatory

### **Defining trafficking as a crime**

The Protocol charges every state that has ratified it with passing legislation that makes it an offence to traffick persons or to attempt to do so, to participate as an accomplice in human trafficking or to organize or direct others to engage in trafficking.

This is its **definition** of the crime of trafficking:

“Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of

- threat or use of force
- other forms of:
  - coercion
  - abduction
  - deception
  - abuse of power or a position of vulnerability
  - giving or receiving of payments or benefits to achieve the consent of a person having control over another person

for the purposes of exploitation.

“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

The consent of the victim of trafficking is considered irrelevant in the light of the methods used to secure participation.

(Note: The definition of trafficking of children is slightly different – See attached document)

### **Protecting victims of trafficking**

The Protocol directs countries to protect victims of trafficking by passing relevant laws and taking administrative measures to:

- Protect their privacy and identity.
- Enable them to participate in legal proceedings.
- Assist their physical, psychological and social recovery.
- Provide for their physical safety.
- Provide avenues for them to seek compensation.
- Make safety a key consideration in deciding whether victims should remain in the country of destination or return to their country of origin.

### **Prevention and co-operation**

All states ratifying the Protocol have an obligation to strengthen measures to address factors – such as poverty, underdevelopment and a lack of equal opportunities – that make people vulnerable to trafficking.

In addition, they agree to undertake research and mass media campaigns to increase understanding of trafficking.

They are also required to adopt or strengthen laws and mobilize social opinion to “discourage the demand that fosters all forms of exploitation of persons, especially women and children, and leads to trafficking.

Law enforcement, immigration and other relevant officials are directed to exchange information on trafficking and the methods of trafficking.

Relevant officials in all ratifying nations are to be trained to prevent trafficking, prosecute traffickers and protect the rights of victims.

States are required to strengthen border controls and to:

- Require transport operators to take measures to prevent trafficking.
- Ensure the quality of identity documents is such that they cannot easily be misused.
- Ensure the integrity and security of travel documents issued.
- Consider improving co-operation among border control agencies.

The approach to trafficking is to affirm the rights of victims as a priority. The Protocol specifies that it should be interpreted in a way that is compatible with the 1951 Convention and the 1967 Protocol on the status of refugees.