

Research Brief: Findings and Recommendations

TRAFFICKING IN PERSONS IN SOUTH SUDAN

Prevalence, Challenges and Responses



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Research Brief: Findings and Recommendations

Trafficking in Persons in South Sudan

Prevalence, Challenges and Responses

Prepared for IOM by Loksan Harley

**IOM South Sudan
2020**





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The Government of South Sudan, through its newly established Technical Taskforce to Counter Trafficking in Persons and Smuggling of Migrants (hereinafter the Task Force), together with the International Organization for Migration (IOM), recently undertook an assessment on Trafficking in Persons (TIP) in South Sudan. The aim of the TIP assessment was to better understand the nature, prevalence, current responses and challenges to addressing TIP in South Sudan, and to provide recommendations to support improved evidence-based counter-trafficking responses moving forward and to promote humane and orderly migration. The Taskforce is mandated through Ministerial Order No. 34/2019 issued by the Minister of Interior in December 2019 following the recommendations of the National Aliens Committee (NAC) through South Sudan's Comprehensive Migration Policy for the Government to conduct an in-depth study of human trafficking in the country.

The report "Trafficking in Persons in South Sudan: Prevalence, Responses and Challenges" analyzes the nature of trafficking in persons in the country, its forms, challenges and the legal gaps in the present legal framework in South Sudan. It provides recommendations that the Technical Taskforce and its partners are set to address. TIP is a heinous crime that exploits human beings. It comes in many forms, including forced labor, forced marriages, sexual exploitation and domestic servitude among others. It's in this report that the nation gets to know what TIP is in South Sudan. The report highlights that the current TIP provisions in the national legal frameworks are inadequate to provide a deterrence to perpetrators, including aggravating punishments to traffickers themselves. The Government of South Sudan recognizes this as the main challenge to combat TIP in the country. The report recommends major reforms to its key government institutions and avenues to build a firm foundation to combat TIP in the country, in line with the regional and international frameworks. Currently, South Sudan does not have provisions that are commensurate to the UN Protocol to Prevent, Punish and Suppress Trafficking in Persons, especially Women and Children, supplementing the United Nations Conventions against Transnational Organize Crimes and its Protocol.

This report provides evidence-based recommendations for South Sudan to strengthen its national TIP response through the following key measures; 1) Develop a comprehensive TIP response that aims at prevention, prosecution, partnership and protection of victims of TIP; 2) Strengthen a whole-of-government response to address the serious crimes of TIP and migrant smuggling;

3) Accede to the UN Protocol to Prevent, Punish and Suppress Trafficking in Persons, especially Women and Children, supplementing the United Nations Conventions against Transnational Organize Crimes and its Protocol; and 4) develop a national legal framework that is in line to international and regional legal frameworks.

Making this report available to public, with the support of IOM and the Government of United Kingdom, Department for International Development (DFID) is one of the first key achievements for the Taskforce. The Government of South Sudan realizes that responding to TIP in South Sudan requires partnerships with multiple stakeholders, thereby the Government welcomes the support from all the stakeholders to combat trafficking in persons in South Sudan together.

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Today, an estimated 25 million adults and children are trafficked worldwide but only an infinite fraction of victims were identified in 2019 by law enforcement globally (United State TIP report 2020). They are trafficked into prostitution, forced domestic labour and on construction sites, but also on offshore fishing boats, in the agriculture sector, and sweatshop industries. We may fail to see these victims of trafficking, or conveniently refuse to see them due to the cheap goods and services they are providing.

Trafficking in persons is a heinous crime that treats human beings as mere commodities. Unscrupulous traffickers exploit vulnerable individuals for commercial and personal gains. The International Labour Organization (ILO) estimates trafficking in persons generates more than USD 150 billion every year, a sordid trade which is believed to be the third most profitable illegal business after drug trafficking and counterfeiting.

Human trafficking continues to be a vastly underreported crime, which means that its global profit may in fact far surpass that of all other illegal trades. Ruthless traffickers take advantage of poverty and a lack of perceived socioeconomic perspectives at home, as well as of conflict and natural disasters as they continue to prey on highly vulnerable groups such as internally displaced persons (IDPs), undocumented migrant workers, and helpless young boys and girls.

We are living in an unprecedented era of human mobility, with more than one billion people out of almost 8 billion in the world on the move. The East and Horn of Africa region is no exception, as it continues to experience significant levels of internal and cross-border mobility, including intra and extra regional movements.

In mid-2019, the region hosted 6.5 million international migrants, more than six million IDPs, and in excess of three million refugees and asylum-seekers. Mobility in the region is often triggered by a combination of persistent insecurity and conflict, harsh climatic conditions affecting livelihoods, and public health emergencies, alongside other persistent socioeconomic drivers. This combination of factors is likely to increase vulnerability among affected populations and individuals and increase the risk of human trafficking. Individuals who have little or no social and legal protection are considered most at risk, as well as women and girls in areas where extreme gender discrimination, such as forced marriage, prevails.

Furthermore, as in other parts of the world, young adults run the risk of being recruited into forced labour, falling prey to armed groups, or ending up in other situations of exploitation where the authority of the State is unable to protect them, either through lack of capacity or relevant legislation. There is therefore an urgent need for the Government of South Sudan and for all stakeholders to address human trafficking and victim protection head on.

Worldwide, IOM strives to contribute new knowledge on a range of migration issues to strengthen the quality of information and data to guide and inform evidence-based policies and responses.

This report, "Trafficking in Persons in South Sudan: Prevalence, Responses and Challenges", is the product of an extensive consultative process. It is the first of its kind in the country and aims to provide a comprehensive, in-depth study into trafficking vulnerabilities, current and future responses to prevent human trafficking, protect victims, and prosecute those who organize and benefit from this crime. This report also provides key recommendations through which the Government of South Sudan and partner agencies can work together to systematically address trafficking in persons through a whole-of-government approach.

In 2019, the Government of South Sudan introduced the country's first ever comprehensive Migration Policy, which identifies trafficking in persons as a key priority area for immediate action. As a result, the Ministry of Interior set up a Technical Task Force on Anti Trafficking in Persons and Smuggling of Migrants. This is a critical first step in a whole-of-government response to trafficking in persons in the country, and IOM looks forward to furthering its collaboration with the Government to support this critical endeavour and tackle this crime.

This report was conducted in collaboration with the Technical Task Force, a whole of government response, for which IOM sits as technical advisor. I trust that the Government of South Sudan and its partners will use the key recommendations presented herein to fight this gross human rights violation. This report would not have been possible without the generous support of the United Kingdom Department for International Development (DFID).

A handwritten signature in black ink, consisting of a stylized 'J' and 'C'.

Jean-Philippe Chauzy
Chief of Mission, IOM South Sudan

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This publication is the result of extensive desk research and interviews with key stakeholders carried out between December 2019 and March 2020.

The author of this report is Loksan Harley, an independent migration and protection expert with extensive experience working for the International Organization for Migration and other United Nations agencies, governments, and non-governmental organizations in research, programme management, and technical assistance across Europe, Africa, and Asia.

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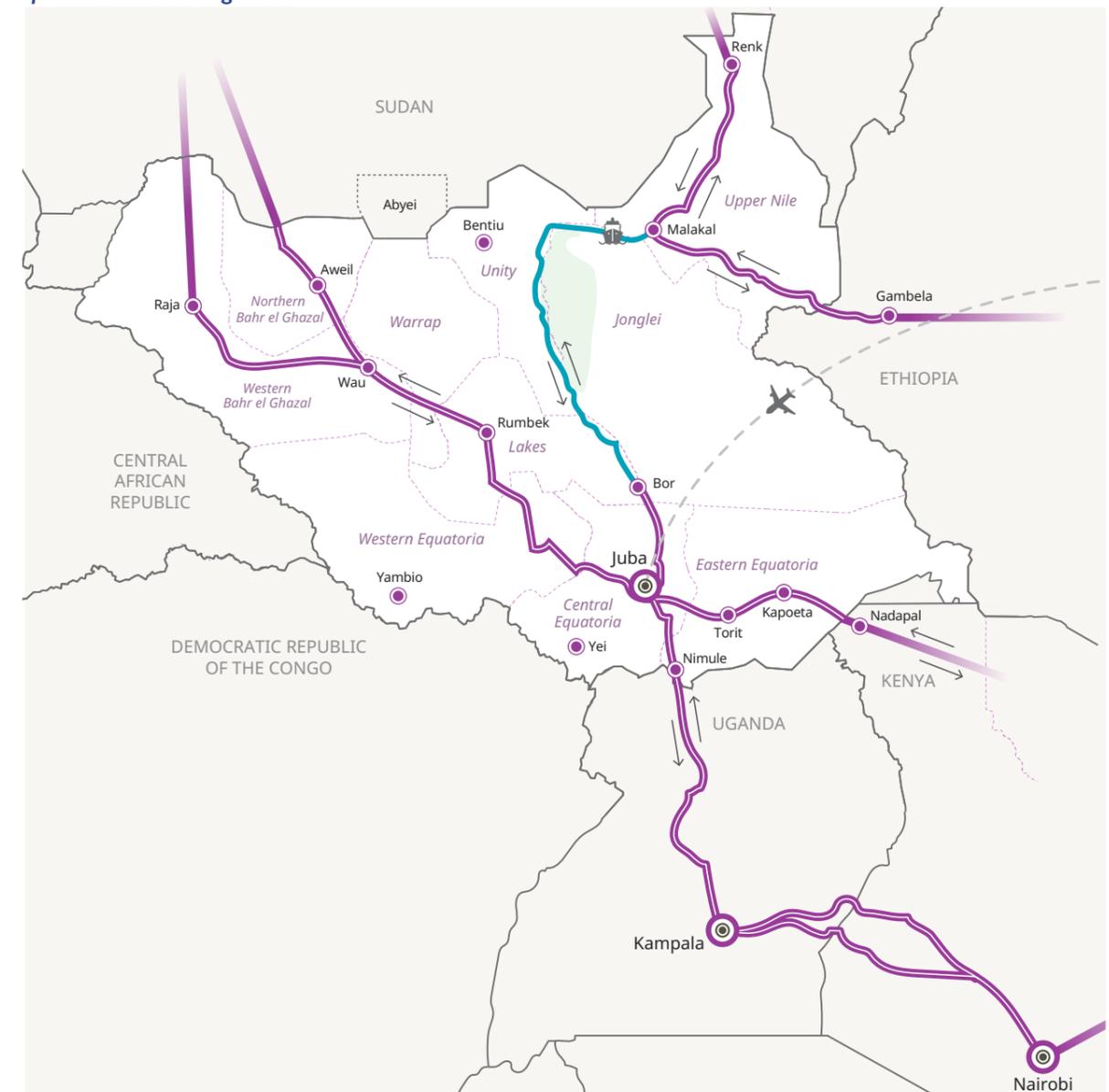
Part 1. Introduction

- Against a backdrop of conflict, related governance challenges and mixed migration, including forced displacement and transit migration, corroborated reports and anecdotes suggest that the following forms of internal and transnational trafficking in persons (TiP) are perpetrated in South Sudan:¹
 - Forced recruitment by armed forces and armed groups;
 - Forced marriage;
 - Domestic servitude;
 - Sexual exploitation;
 - Labour exploitation.
- This assessment, which captures TiP based on the United Nations (UN) TiP Protocol definition, represents the country's first dedicated study into TiP and all its forms. With a view to strengthening the national TiP response, the assessment aims to: 1) determine the prevalence of TiP; 2) evaluate the characteristics and push and pull factors of TiP; and 3) set the baseline for evidence-based prevention, prosecution and protection action plans.
- It is the fruit of a wide-ranging literature review, 38 interviews, 4 focus group discussions and 2 workshops, carried out in Juba and Nimule from January to February 2020. These included representatives of the Government of South Sudan, IOM and other international organizations, and civil society.

Part 2. National Context

- TiP in South Sudan is influenced by the young country's unique experiences with conflict, governance and migration, as well as a number of harmful cultural practices.
- Post-conflict governance challenges, particularly as regards law enforcement, means TiP often goes underreported or unpunished when it is reported.
- Conflict has displaced millions – many of which are separated from families and moving unprotected by foot. Internal and international migrants also continue to migrate across the country in search of protection, work and grazing pastures, with others transiting the country in the hope of reaching North Africa and Europe. These factors heighten the vulnerabilities to exploitation, including TiP.

Map: International migration^{1,2}

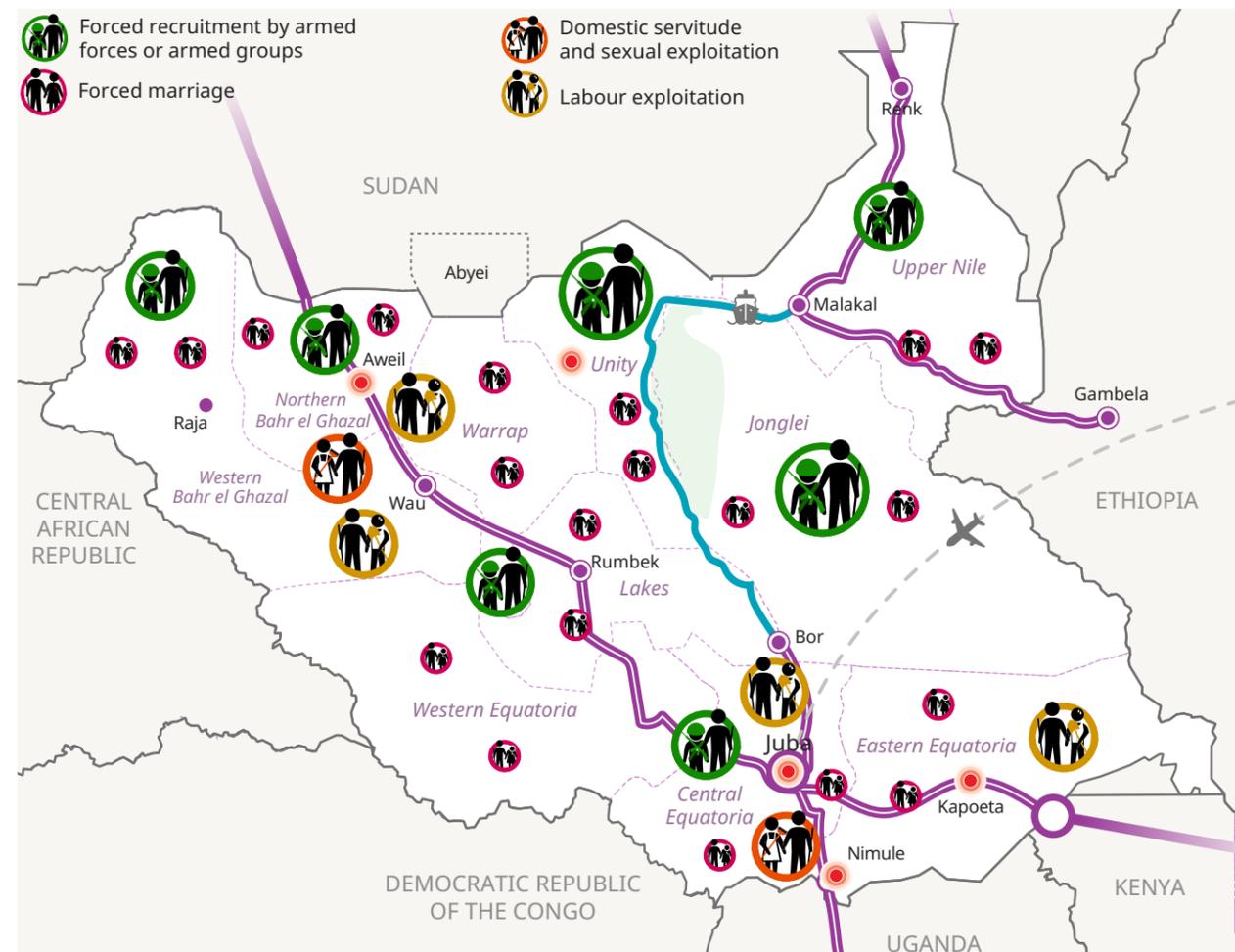


¹ Focus group discussion, embassies of migrant origin countries, Juba, 29 January 2020; focus group discussion, migrant associations, Juba, 29 January 2020; key informant interview, Directorate for Civil Registry, Nationality, Passports, and Immigration, Nimule, 16 January 2020.

² The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

Part 3. Forms of Trafficking in Persons

Map: Trafficking in persons in South Sudan^{3,4}



Source: IOM, 2020.

Forced recruitment into armed forces or armed groups

	TiP practices identified	<ul style="list-style-type: none"> Recruitment of children into combat and non-combat roles. Forced recruitment of adults into combat and non-combat roles. Recruitment of women and girls by armed forces and groups for the purposes of sexual exploitation.
	Victims	<ul style="list-style-type: none"> Men and boys (particularly for armed combat and forced labour) Women and girls (particularly for sexual exploitation)
	Perpetrators	<ul style="list-style-type: none"> State² and non-State armed forces and groups
	Hotspots	<ul style="list-style-type: none"> Unity, Western Equatoria, Upper Nile, Jonglei, Northern Bahr el Ghazal (child recruitment) Western and Central Equatoria (for sexual slavery and forced labour)

³ The administrative boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the UN. Final boundary between the Republic of Sudan and the Republic of South Sudan has not been determined. Final Status of Abyei area is not yet determined.

⁴ The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

⁵ United Nations Security Council (2018). Children and armed conflict in South Sudan: Report of the Secretary General. [online] UN Security Council. Available at: www.securitycouncilreport.org/atf/cf/%7B65B5F9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2018_865.pdf [Accessed 12 Feb. 2020].

Forced marriage

	TiP practices identified	<ul style="list-style-type: none"> Women and girls are abducted and forcibly married in exchange for a bride price – at times without the prior knowledge of the victim or parents. After being forcibly married, the victim may be subjected to domestic servitude and sexual exploitation. Girls have also been abducted as part of inter-ethnic conflicts, which can lead to them being married out forcefully. Few means of escape are available to victims. If they do escape, they may be pursued, beaten, or forced into servitude as bride prices have typically been agreed before the marriage.
	Victims	<ul style="list-style-type: none"> Women and girls.
	Perpetrators	<ul style="list-style-type: none"> Parents and relatives of the prospective wife and husband, and the prospective husband.
	Hotspots	<ul style="list-style-type: none"> Nationwide. Pastoralist areas show higher rates of child marriage. Transnational forced marriage prevalent in communities which straddle borders.

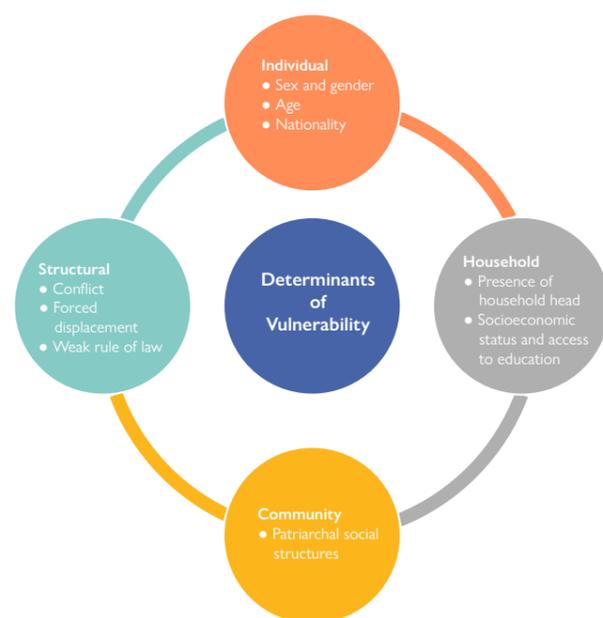
Domestic servitude and sexual exploitation

	TiP practices identified	<ul style="list-style-type: none"> Women, girls and boys are deceived into migrating to pursue employment or education, only to be forced into domestic servitude or sexually exploited. Women and children may be forced into servitude or sexually exploited after being forcibly married, with no means of escape. Women and children may be deceived into migrating within the country or internationally with the promise of decent employment, before being forced into domestic or sex work.
	Victims	<ul style="list-style-type: none"> Women and girls, and occasionally boys, especially from rural areas.
	Perpetrators	<ul style="list-style-type: none"> Household heads and victims' relatives and friends.
	Hotspots	<ul style="list-style-type: none"> Nationwide, especially Juba and other urban areas. Transnational TiP for domestic servitude and sexual exploitation prevalent in communities which straddle borders, with limited reports of trafficking to more distant countries.

Labour exploitation

	TiP practices identified	<ul style="list-style-type: none"> Women, girls and boys are deceived into migrating to pursue employment or education, only to be forced into domestic servitude or sexually exploited. Women and children may be forced into servitude or sexually exploited after being forcibly married, with no means of escape. Women and children may be deceived into migrating within the country or internationally with the promise of decent employment, before being forced into domestic or sex work.
	Victims	<ul style="list-style-type: none"> Men, women, girls and boys.
	Perpetrators	<ul style="list-style-type: none"> Businesses, especially hotels, restaurants, bars, construction, and unlicensed mining companies.
	Hotspots	<ul style="list-style-type: none"> Hospitality, entertainment and construction sectors, especially in Juba and other urban centres. Aweil, Wau and Juba (for child labour). Central and Eastern Equatoria (for artisanal mining).

Part 4. Vulnerability Factors



Determinants of vulnerability to trafficking in persons in South Sudan

- Individual, household, community and structural-level factors render people vulnerable to TiP.
- Individual factors:
 - Sex and gender: forced marriage, domestic servitude and sexual exploitation disproportionately affect female victims, while other forms, such as forced recruitment, more greatly impact men and boys.
 - Age: children are particularly vulnerable to recruitment into armed forces and groups, and labour trafficking into gold mining, cattle herding, domestic servitude and forced begging.
 - Nationality: foreign nationals may lack supportive and protective networks.
- Household and community factors:
 - Presence of household head: the loss of a family head who may be the sole breadwinner can make the remaining members more vulnerable to being trafficked.

- Socio-economic status and access to education: members of households with a lower socio-economic status may be more susceptible to deception or to accepting exploitative employment. Less access to education and livelihood opportunities can increase the potential benefit of marrying off a daughter in exchange for the bride price, or in sending a family member to reside with extended family or another household - common situations where TiP occurs.
- Patriarchal social structures: forced marriage is deeply intertwined with the social fabric, including bride price practices and the decision-making role of male elders.

4. Structural factors:

- Conflict: conflict has weakened South Sudan's young institutions, increased human rights violations and displaced millions, weakening protective structures in communities, increasing TiP-related human rights violations (including sexual slavery and forced recruitment), inducing displacement and weakening rule of law.
- Forced displacement: more than 4 million have been displaced, heightening vulnerabilities to TiP, including through the separation of families. Persons moving around displacement camps are also at risk of being forcibly recruited or subjected to sex or labour trafficking. In the forced displacement context, it may also be easier to move children without proper scrutiny.
- Rule of Law: conflict has impacted South Sudan's already-young institutions. Weak law enforcement and corruption enable TiP to be perpetrated in an environment of relative impunity. Customary law to some degree fills the void but its courts appear to be ill-adapted to the needs of TiP cases and victims of trafficking.

Part 5: Legal, Institutional and Policy Frameworks

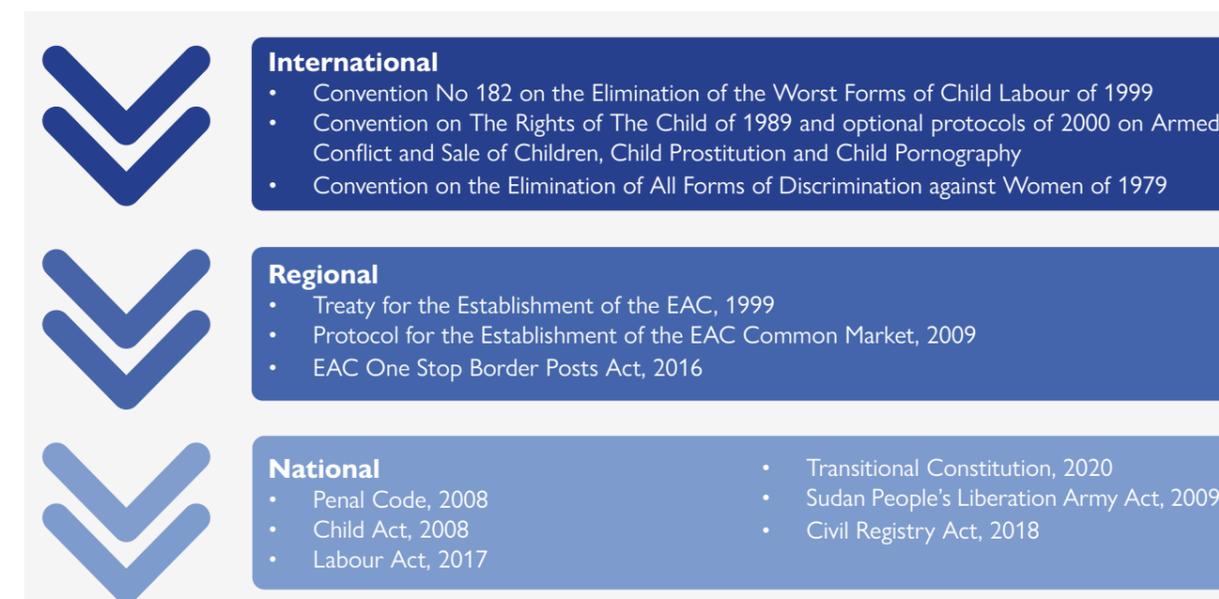


Figure 3. South Sudan's trafficking in persons legal framework

- South Sudan has signed up to several international conventions related to TiP, although it has not yet acceded to the UN TiP Protocol.
- It is a member of the Intergovernmental Authority on Development and the East African Community but has not adopted regional frameworks on mutual legal assistance and extradition, which constrain international cooperation on transnational TiP cases.
- At the national level, the country has criminalized certain practices which are in line with the UN TiP definition – notably in the Penal Code, Child Act and Labour Act – although it does not explicitly recognize many such practices as TiP.
- While the legal framework criminalizes certain elements of TiP crimes like forced labour and the worst forms of child labour, it does not clearly define TiP and criminalize all its forms. Moreover, it provides lenient penalties for most TiP offences and delegates forced marriage cases to customary law.
- The legal framework contains few provisions to protect victims of trafficking, although the Child Act outlines measures to protect “children in need of special care and protection”, which includes trafficked children.
- South Sudan's policy framework includes a draft National Comprehensive Migration Policy and standalone policies and action plans addressing gender-based violence and child marriage – which contain provisions relating to TiP. Policy implementation and coordination are persistent challenges across the board.
- The government's policy commitment to counter TiP is manifested in the 2019 Ministerial Order establishing the Technical Taskforce on Anti-Human Trafficking and Smuggling of Persons as the inter-ministerial platform to coordinate the national TiP response.

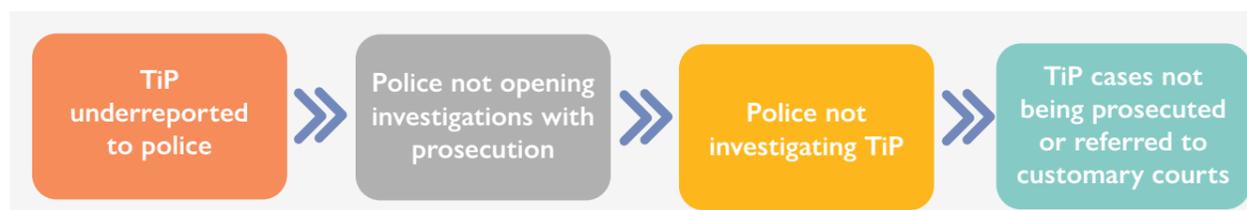
Part 6: Counter-trafficking response

Prosecution

1. No TiP prosecutions⁶ were made between 2016-2019, with the last five prosecutions⁷ being made in 2015. However, some investigations have been carried out into abduction for forced marriage.
2. TiP crimes are underreported due to the normalization of TiP within cultural practices, public distrust of law enforcement, stigmatization of victims, and a low awareness of TiP among criminal justice actors.
3. Law enforcement agencies, including the immigration

department, do not screen for TiP victims. TiP is also conflated with migrant smuggling and irregular migrants are refused entry, deported or repatriated without protection being provided or investigations being initiated.

4. The labour ministry has limited inspection capacities and the few labour inspectors only cover formal economy workplaces where TiP is less likely to occur.



The chain of prosecution issues

5. Law enforcement agencies often fail to open investigations into crimes like TiP, fail to conduct proactive investigations into organized crime, and detain potential TiP victims.
6. Despite making commitments to hold military officers accountable for the recruitment or use of children, the government has not made any prosecutions to that effect.
7. While TiP prosecutions by formal courts are extremely rare, customary courts hear the majority of criminal cases, including potential TiP cases like forced marriage. Their judgements focus on mediation and dispute resolution, as opposed to discharging justice in favour of victims themselves.

Protection

1. The government provides minimal protection and assistance directly to potential victims of TiP, with no TiP-adapted protection frameworks. Children associated with armed forces or armed groups are the only potential TiP victims who receive some form of State-sanctioned protection or assistance, which is provided in cooperation with international partners. The government also deploys some social workers at the state level.
2. The government has cooperated with other organizations to release and reintegrate 3,677 children associated with armed forces and groups between 2013-2019.
3. Humanitarian organizations provide some support to potential victims of TiP, particularly women and children, in the framework of their gender-based violence and child protection interventions. This may include basic medical assistance, counselling and legal assistance.
4. Assistance is generally not adapted to the specific needs of TiP victims.

Prevention

1. Aside from IOM-implemented awareness-raising activities, no activities specifically aim to prevent TiP. Trafficking awareness remains low among all stakeholders, including the general public.
2. The government and other stakeholders have raised awareness about gender-based violence, early marriage and children associated with armed forces or armed groups.
3. The Civil Registry Act, 2018 aims to enhance the verification of age and promote marriage registration. This could help prevent some forms of child trafficking.

Partnership

1. Collaboration and information sharing between immigration and security services take place on an ad-hoc basis, with no formal mechanisms for collecting, analysing, or sharing TiP information.
2. There is little collaboration between the Ministry of Gender, Child and Social Welfare (nominally responsible for victim protection) and departments coming into contact with potential victims of trafficking, including immigration and security services.
3. The division of responsibilities between law enforcement agencies appears unclear, with different police and security departments all intervening on potential TiP cases.
4. When law enforcement agencies intercept a case of immigration or other crime involving a foreign national, including potential TiP cases, they work with embassies and migrant associations to arrange for bail and deportation or repatriation.
5. South Sudan has concluded agreements covering deportation and mutual legal assistance with Uganda and Rwanda. It also participates in East African Community police cooperation platforms and raises and receives INTERPOL alerts, including on potential transnational TiP cases.

⁶ Based on the TiP-specific provisions of the legal framework (Article 282 of the Penal Code Act, 2008 and Article 120 of the Child Act, 2008).

⁷ Based on Article 282 of the Penal Code Act, 2008.

Part 7. Recommendations

Strategic Next Step

Strategic step 1: Accede to the United Nations Convention against Transnational Organized Crime and related protocols.

Strategic step 2: Draft a counter-TiP/SoM strategy and action plan.

Strategic step 3: Strengthen the national legal framework - including using the UN TiP definition, criminalizing all forms of TiP, outlining protection arrangements, and designating sufficiently stringent penalties.

Specific recommendations

Prosecution

Recommendation 1: Build capacities of law enforcement agents and labour inspectors to screen for victims of trafficking – by developing guidelines and procedures, along with training on their use, on victim screening.

Recommendation 2: Train law enforcement agents, prosecutors and judges on investigation methods and victim care – through agents' foundational training and existing capacity-building activities, using active participation and situational application, such as ongoing mentoring.

Protection

Recommendation 4: Adapt assistance to the specific needs of trafficking victims – by mainstreaming TiP into existing protection responses (provided by humanitarian protection actors or the government), which should begin with the elaboration of a TiP strategy paper for protection actors, with a view to determining more detailed adaptation of assistance to the needs of TiP victims.

Recommendation 5: Enhance reintegration options for victims of trafficking – building the capacities of assistance providers to identify re-trafficking vulnerability factors, providing shelters for TiP victims, and supporting sustainable reintegration.

Recommendation 6: Utilize safe spaces for women, girls and children and hotlines to enhance reporting – establishing spaces where those vulnerable

Recommendation 3: Enforce the Labour Act and build the capacities of labour inspectors to identify trafficking in persons offences – including extending inspections to cover workplaces where TiP is more prevalent, integrating indicators of TiP into labour inspection questionnaires, and developing clear referral processes for victims of labour exploitation.

to trafficking can feel physically and emotionally safe, as well as accessing information and assistance.

Recommendation 7: Build the capacities of civil society organizations to provide legal assistance to victims of trafficking – providing victims with information on court and administrative proceedings, and assisting victims to present their views at all stages of criminal proceedings against offenders.

Recommendation 8: Train diplomatic personnel on trafficking in persons, victim identification and provision of assistance to South Sudanese victims of trafficking abroad – strengthening the evidence base on the diaspora and supporting diplomatic personnel to respond to cases of exploitation

Prevention

Recommendation 9: Raise awareness of trafficking in persons – among all stakeholders, especially policy-makers, criminal justice practitioners, traditional and faith-based authorities, and the general public, with a focus on integrating TiP into existing campaigns.

Recommendation 10: Regulate private employment agencies to prevent labour trafficking – which may require the labour ministry to take a more proactive regulatory approach on labour migration and to issue additional regulations.

Partnership

Recommendation 12: Include all trafficking in persons stakeholders in the Technical Taskforce on Anti-Human Trafficking and Smuggling of Persons – including the National Disarmament, Demobilization and Reintegration Commission, the Ministry of Humanitarian Affairs and Disaster Management, the Ministry of Health, and a parliamentarian.

Recommendation 11: Strengthen civil registry as a means to promote more effective age verification and marriage regulation – enforcing the Civil Registry Act, especially with respect to birth and marriage certificates.

Recommendation 13: Strengthen international cooperation to counter transnational trafficking by signing bilateral and multilateral agreements with key origin and destination countries – including acceding to the Intergovernmental Authority on Development's conventions on mutual legal assistance and deportation.

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