



Save the Children

TIPPING POINTS TO TURNING POINTS:

DECEMBER 2022

**HOW CAN PROGRAMMES AND POLICIES BETTER RESPOND TO THE
RISKS OF CHILD TRAFFICKING AND EXPLOITATION ON THE CENTRAL
MEDITERRANEAN ROUTE?**

ANNEX 1 – ANALYSIS OF NATIONAL LEGISLATION

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Overview of national frameworks in EAMR countries

Country	Key laws and policies	Key authorities	Main strengths	Main gaps
Egypt	<ul style="list-style-type: none"> • Law No. 64 of 2010 regarding Combating Human Trafficking • Law No. 82 of 2016 on Combating Illegal Migration and Smuggling of Migrants • Law No. 10/1961 on the Combating of Prostitution • Law No. 12 of 1996 concerning the Child Law • National strategy on preventing and combating human trafficking, 2016-2021 • National strategy for combating and preventing illegal migration, 2016-2026 	<ul style="list-style-type: none"> • National Coordination Committee on Combating and Preventing Illegal Migration and Trafficking in Persons (NCCCPIM & TIP) • National Council for Childhood and Motherhood (NCCM) • National Council for Women (NCW) 	<ul style="list-style-type: none"> • Solid institutional framework • Identification of child trafficking cases • Hotline for referrals and shelters for survivors 	<ul style="list-style-type: none"> • Conflation between smuggling and trafficking • Priority objectives focused on combating smuggling and irregular migration • No protection for domestic workers • Poor protection and support and assistance services for victims of trafficking and no specific considerations for child survivors
Ethiopia	<ul style="list-style-type: none"> • Constitution of Ethiopia • Proclamation No. 1178/2020, A Proclamation to Provide for the Prevention and Suppression of Trafficking in Persons and the Smuggling of Persons • Criminal code, 2004 • Revised Family Code Proclamation No. 213/2000 	<ul style="list-style-type: none"> • National Council for the prevention of the crimes of trafficking in persons, smuggling of persons and the unlawful sending of persons abroad for work • National Partnership Coalition for the prevention of the crimes of trafficking in persons, smuggling of persons and the unlawful sending of persons abroad for work • Regional partnership coalitions (anti-human trafficking regional taskforces) • Ministry of Women and Social Affairs (MoWSA) (rehabilitation support to women and children victims of violence) 	<ul style="list-style-type: none"> • Constitutional prohibition of trafficking in human beings • Two recently established authorities, the National Council and the National Partnership Coalition on trafficking and smuggling • Protection and rehabilitation services consider child vulnerability • Hotlines in 6 out of 12 regions to report sexual exploitation of children 	<ul style="list-style-type: none"> • Anti-trafficking legislation not compliant to the international framework • No anti-trafficking action plan • Lack of consideration of the specific needs of child victims in terms of protection, support and assistance services • Lower protection for child labour exploitation

Sudan

- Combating of Human Trafficking Act, 2014
- Child Act, 2010
- National action plan for combating human trafficking, 2021-2023
- National Committee to Combat Human Trafficking (NCCT)
- Khartoum Regional Operations Centre (ROCK), a partnership between the EU and the African Union
- Commissioner for Refugees (COR)
- Humanitarian Aid Commission (HAC)
- Legislation on human trafficking, recently aligned with the international definition
- National action plan for combating human trafficking launched in 2021
- Prohibition of the recruitment of children in armed forces and enforcement by staffing the Child Rights Unit within the Sudanese Armed Forces
- Not a party to the Palermo Protocol against smuggling and no standalone legislation on smuggling, resulting in the conflation of migrant smuggling and human trafficking
- No provisions regarding protection and assistance of victims
- No dissemination or implementation of SOPs developed in 2018 on identification of victims of child trafficking
- Inconsistent screening of victims by authorities, resulting in arrest and detention of victims

Egypt

Relevant laws and policies	Relevant authorities
<ul style="list-style-type: none"> • Law No. 64 of 2010 regarding Combating Human Trafficking • Law No. 82 of 2016 on Combating Illegal Migration and Smuggling of Migrants • Law No. 10/1961 on the Combating of Prostitution • Law No. 12 of 1996 concerning the Child Law • National strategy on preventing and combating human trafficking, 2016-2021 • National strategy for combating and preventing illegal migration, 2016-2026 	<ul style="list-style-type: none"> • National Coordination Committee on Combating and Preventing Illegal Migration and Trafficking in Persons (NCCCCPIM & TIP) • National Council for Childhood and Motherhood (NCCM) • National Council for Women (NCW)

Criminalisation and policies combating human trafficking and smuggling of migrants

Egypt has a relatively robust institutional framework, based on Law No. 64 of 2010 regarding Combating Human Trafficking and Law No. 82 of 2016 on combating illegal migration and smuggling of migrants.¹ The 2010 anti-trafficking law criminalised sex trafficking and labour trafficking and prescribed penalties from 3 to 15 years' imprisonment and a fine of between 50,000 and 200,000 Egyptian pounds for offenses involving an adult victim, and up to life imprisonment and a fine of between 100,000 to 500,000 pounds for offenses involving a child victim² (articles 5 and 6). The 2016 law on combating smuggling criminalised the smuggling of migrants and prescribed from 3 to 15 years' imprisonment and a fine of between 50,000 and 200,000 Egyptian pounds or a fine equivalent to the achieved profits, whichever is greater. There is a penalty of aggravated imprisonment and a fine of between 200,000 to 500,000 pounds in several cases, in particular if the smuggled migrant was a woman, a child, an incompetent person or a person with a disability (article 6).

The 2016 law on combating smuggling also established the National Coordination Committee on Combating and Preventing Illegal Migration and Trafficking in Persons (NCCCPIM & TIP). This replaced a previous committee established by Law No. 64 of 2010, which focused only on combating human trafficking. However, priority goals listed on the committee's website are oriented towards combating smuggling and illegal migration rather than anti-trafficking specifically. Indeed, article 28 of Law No. 82 of 2016 states that NCCPIM & TIP is 'concerned with the national and international coordination between policies, plans and programs instituted for combating and preventing illegal migration and shall provide the due care and services to smuggled migrants, witness protection according to international commitments' (article 28 of Law No. 82 of 2016). In addition, the priority goals presented on the committee's website are all oriented towards combating smuggling and illegal migration.

Egypt adopted a national strategy on preventing and combating human trafficking for the period 2016-2021 and launched a national strategy for combating and preventing illegal migration for 2016 to 2026, then detailed into action plans. This strategy lists nine main goals and 36 sub-goals. Main goal 6 focuses on protecting the most vulnerable groups at risk of illegal migration by providing early awareness-raising on the risks of illegal migration, through the inclusion of illegal migration issues in educational curricula and extra-curricular activities at the pre-university and university stages, and in youth centres and clubs (sub-goal 6.1); enhancing the capacity of national councils' hotlines (sub-goal 6.2); providing services for groups eligible for the 'Takaful and Karama'³ programme to face poverty conditions that lead to illegal migration, and providing health care services for the neediest groups (sub-goal 6.3); monitoring and ensuring safe return of illegal migrants to guarantee unrepeat attempts at illegal migration (sub-goal 6.4); and developing programmes to raise infiltrators' awareness about the risks of illegal migration (sub-goal 6.5). The target groups for the strategy are youth, children, women, families, illegal migrants, and smuggled people.

Both laws on combating anti-trafficking and smuggling established funds to compensate victims (article 27 of the 2010 Law and article 32 of the 2016 Law). The objectives of these funds are to provide financial assistance to victims or survivors who have suffered harm resulting from a human trafficking crime or sustained damages as a result of a migrant smuggling offence. However, a national fund to protect victims of trafficking has not yet been established and the government co-ordinates with civil society organisations to fill the gap.⁴

Other relevant government agencies include the National Council for Childhood and Motherhood (NCCM) and the National Council for Women (NCW). The NCCM maintained 339 child protection committees around the country and worked with 38 NGOs to identify potential child trafficking cases.⁵ In cooperation with the IOM, the Government of Egypt has started preparations for one shelter for female survivors of trafficking and strengthened and expanded the hotline network for referral of trafficking cases. The focus on female survivors is probably due to specific concerns around forced marriages and prostitution. The NCCM acts as the legal representative of unaccompanied children, whose families or legal representatives cannot be identified (article 2 of the Law No. 82 of 2016). Amongst its priorities, the NCCM cites programmes and a special unit for combating the trafficking of children, to protect children from that serious threat and rehabilitate survivors of trafficking.⁶ However, there is no further information on the unit's activities. Other priority areas include children at risk (child labour, child abuse and street children) and protection of girls (education, child marriage, female genital mutilation).



Identification and protection of victims

Regarding assistance and protection of victims of human trafficking, Egyptian law provides that victims shouldn't be liable for any crime of human trafficking that occurred or was related to being a victim (article 21). The law also provides that the state should offer victims appropriate conditions for their assistance, health, psychological wellbeing, education, and social care, and rehabilitation and reintegration into society as well as a return to their homeland (article 22). Victims of trafficking also have the right to legal assistance, in particular the right to counsel in the investigation and trial stages (article 23e). Moreover, the 2016 law on combating smuggling states that migrants who are smuggled should not bear any criminal or civil liability for the crimes of migrant smuggling (article 2).

However, according to the U.S. Department of State, 'the government remained without an effective country-wide victim identification and referral system' and 'NGOs continued to report the referral mechanism was ineffective and underutilised, and various government stakeholders were unaware that it existed'.⁷ Besides, 'at times authorities penalized potential victims for unlawful acts traffickers compelled them to commit, such as immigration and prostitution violations'.⁸

Egyptian law only provides for 'appropriate premises' to host survivors of trafficking, separate from those of the perpetrators (article 24 of the 2010 anti-trafficking law), but does not provide any legal status for them by granting or extending a temporary or permanent residence permit. The same text provides that the Foreign Ministry should coordinate with the relevant authorities in other countries to facilitate the safe and expeditious return of foreign victims to their countries of origin (article 25). This is an important point of concern for potential asylum seekers.

Law No. 12 of 1996 concerning the Child Law provides that 'any adult who induces a child to commit a misdemeanour, or trains him to do it, or helps him, or facilitates it in any way, but did not attain his goal shall be sentenced to half the maximum sentence decreed for this crime'.⁹ The law foresees a penalty of no less than six months' imprisonment if the offender uses coercive or threatening methods with the child or if he is related to him. The penalty is set between 1 and 7 years' imprisonment if the crime is committed against more than one child.¹⁰ Furthermore, 'anyone importing, or exporting, or producing, or preparing, or viewing, or printing, or promoting, or possessing, or broadcasting pornographic material using children, or related to the sexu-

al exploitation of children' will face a sentence of no less than 2 years' imprisonment and a fine of between 10,000 and 50,000 Egyptian pounds.¹¹

Criminalisation and policy on prostitution

Law No. 10/1961 on the Combating of Prostitution criminalised incitement, assistance, facilitation, employment, temptation, or induction of a person to engage in debauchery or prostitution, prescribing from 1 to 3 years' imprisonment (article 1). The law also criminalised any person who brings a person into the state or facilitates their entry to commit prostitution or debauchery, prescribing between 1 and 5 years' imprisonment (article 5), as well as any person who habitually engages in debauchery or prostitution, prescribing between 3 months and 3 years' imprisonment (article 9c). Egyptian law does not protect domestic workers,¹² which creates important unpunished risks of exploitation and great vulnerabilities to trafficking.

Main strengths	Main gaps/challenges
<ul style="list-style-type: none"> • Solid institutional framework • Identification of child trafficking cases • Hotline for referrals and shelters for victims 	<ul style="list-style-type: none"> • Conflation between smuggling and trafficking • Priority objectives focused on combating smuggling and irregular migration • No protection for domestic workers • Poor protection and support and assistance services for victims of trafficking and no specific considerations for child survivors

Eritrea

Relevant laws	Relevant authorities
<ul style="list-style-type: none"> • Penal Code, 2015 • Proclamation No. 82/1995 on national service 	<ul style="list-style-type: none"> • None identified

Criminalisation and policies combating human trafficking and smuggling of migrants

Eritrea's constitution provides that 'no person shall be held in slavery or servitude or required to perform forced labour not authorized by law' under its article 16.3, but this document adopted in 1997 has never been implemented. Eritrea accessed

the Palermo Protocol on Trafficking in Persons in 2014 but its legal provisions are not yet incorporated in the Eritrean legal framework and there is no specific legislation on trafficking in persons in Eritrea.

Some offences relating to human trafficking have been criminalised in the Penal Code published in 2015, but with no entry into force date. Article 297 states that, 'a person who: (a) sells, alienates, pledges, buys, trades, traffics or otherwise enslaves another person; or (b) keeps or maintains another person in a condition of slavery even in disguised form; or (c) knowingly transports whether by land, sea or air persons enslaved or aids and abets such traffic whether within Eritrean territory or otherwise' is guilty of enslavement. This act is punished with 7 to 10 years' imprisonment. If the person that was enslaved is a child, the sentence rises to between 13 and 16 years' imprisonment.

Article 299.1 punishes violation of the right of freedom to work and sets a sentence of between 6 and 12 months' imprisonment or a fine between 20,001 and 50,000 Nakfas for the act of, 'a person who by intimidation, violence, fraud or any other unlawful means, whether alone or with other compels another: (a) to accept a particular employment or particular conditions of employment, or to refuse or withhold his labour, with the object of imposing on an employer by force the acceptance or modification of terms of employment; (b) to join a group or association having as its aim the objects mentioned in (a); or (c) anyone who prevents another from freely leaving such a group or association'. Article 300 provides an aggravated offence, punishable by an imprisonment for between 1 and 3 years.

Article 315 criminalises traffic in women, infants and young persons and punishes with between 5 and 7 years' imprisonment, 'a person who for gain or to gratify the passions of others: (a) traffics in women or infants and young persons, whether by seducing them, by enticing them, or by procuring them or otherwise inducing them to engage in prostitution or the production of pornographic performances, even with their consent; or (b) keeps such a person in a disorderly house or to let them out to prostitution'. Finally, Chapter 3 of Book III of the Penal Code foresees several sexual offences such as sexual and aggravated sexual assault (articles 303 and 304), sexual and aggravated sexual outrage on minors between 15 and 18 years of age (articles 305 and 306), rape and aggravated rape (articles 307 and 308).

Identification and protection of victims

Under Proclamation No. 82/1995 of national services, all Eritrean citizens from the age of 18 to 40 years old have the compulsory duty of performing active national duty (article 8). The proclamation sets an 18-month limit on the length of national service, but this provision is not enforced¹³ and according to a U.S. Department of State report on trafficking in persons, 'the [Eritrean] government continued to exploit its nationals in forced labour in its compulsory national service and citizen militia by forcing them to serve for indefinite or otherwise arbitrary periods.'¹⁴

Without proper anti-trafficking legislation, authorities and tools, 'the government did not report any trafficking investigations, prosecutions, or convictions and did not identify any victims of trafficking'.¹⁵ Moreover, Eritrean authorities 'did not report the development of formal procedures for the identification and referral of victims to care, nor did the government report providing any services directly to victims.'¹⁶

Main strengths

- Accession to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons

Main gaps/challenges

- No transposition of the Palermo Protocol on trafficking to national legislation and no accession of the Palermo Protocol on smuggling of migrants
- No specific legislation or policy on combating human trafficking
- Exploitation of nationals by the government through forced labour in compulsory national service or citizen militia, for an indefinite or arbitrary period
- No protection for victims



Ethiopia

Relevant laws and policies	Relevant authorities
<ul style="list-style-type: none"> • Constitution of Ethiopia • Proclamation No. 1178/2020, A Proclamation to Provide for the Prevention and Suppression of Trafficking in Persons and the Smuggling of Persons • Criminal Code, 2004 • Revised Family Code Proclamation No. 213/2000 	<ul style="list-style-type: none"> • National Council for the prevention of the crimes of trafficking in persons, smuggling of persons and the unlawful sending of persons abroad for work • National Partnership Coalition for the prevention of the crimes of trafficking in persons, smuggling of persons and the unlawful sending of persons abroad for work • Regional Partnership Coalitions (anti-human trafficking regional taskforces) • Ministry of Women and Social Affairs (MoWSA) (rehabilitation support to women and child victims of violence - Proclamation 1263/2020)

Criminalisation and policies combating human trafficking

According to ENACT, 'in Ethiopia, prohibition of TiP [trafficking in persons] rests on a constitutional basis'.¹⁷ Article 18 (2) of the Constitution of Ethiopia prohibits trafficking in human beings, providing that 'no one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.' This definition was incorporated in the Criminal Code of 2004 and the government of Ethiopia first outlined its plan to combat human trafficking in 2015 through proclamation No. 909/2015, The Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants, which established a national committee and the Anti Human Trafficking and Smuggling of Migrants Task Force.¹⁸ Proclamation No. 1178/2020, A Proclamation to Provide for the Prevention and Suppression of Trafficking in Persons and the Smuggling of Persons', replaced both Proclamation No 909/2015 and relevant provisions of the Criminal Code. The proclamation also replaced the national committee with a national council (article 33) and replaced the previous task force with the National Partnership Coalition for the prevention of the crimes of trafficking in persons, smuggling of persons and the unlawful sending of persons abroad for work (article 35).

However, Proclamation No. 1178/2020 failed to address the main gap from the texts it was replacing, which was defining trafficking in persons in compliance with the international legal framework. The issue has been resolved since the government approved corrigendum 11/2013 under proclamation 1229/2020. The proclamation punishes with 7 to 15 years' imprisonment and a fine from 20,000 to 100,000 Birr any acts of trafficking in persons (article 3), and up to 10 to 20 years' imprisonment and a fine from 30,000 to 100,000 Birr when the act is committed against a child, or a mentally ill or physically disabled person among other circumstances (article 4.1). The sentence rises to life imprisonment or death and a fine from 50,000 to 200,000 Birr where the offence caused the death of the victim (article 4.3).

According to a U.S. State Department report in 2021, 'the government remained without an anti-trafficking national action plan (NAP) for at least the fifth consecutive year'.¹⁹ However, the newly established National Council bears the following functions and responsibilities (article 34, Proclamation No 1178/2020): 1) initiate policies, law and strategies for the prevention and control of the crimes of trafficking in persons, smuggling of persons and unlawful sending of persons abroad for work; coordinate, if there are, bodies clearly mandated to initiate policies, laws and strategies on these matters and follow ups implementation upon approval; 2) issue a Directive for the creation of a national referral mechanism for the rescue, rehabilitation, provision of support, reintegration of victims and other related matters; 3) coordinate, for initiation of policy, law or strategy, organs entrusted with function and responsibilities related to matters of internal displacement, refuge or migration; 4) follow up its implementation, provide recommendations as to providing support and response to sections of the society vulnerable to refuge and migration, job creation and other related matters, manners of implementation; follow up the execution of these matters by the organs mandated to and provide appropriate assistance; 5) give operational guidance to the National Partnership Coalition, approve programmes and action plans of the coalition, follow up on its implementation and provide redress for gaps; 6) issue Directives regarding its internal working procedures and relationship with the National Partnership Coalition. A draft strategy for the prevention of trafficking in persons and smuggling of migrants was under discussion at the Attorney General's Office in early 2022.²⁰

Additionally, the National Partnership Coalition takes on the following responsibilities: 1) submit to the National Council by undertaking research and preparing policies, strategies and laws that enable the prevention and control of the crimes of traf-

ficking in persons, smuggling of persons and unlawful sending of persons abroad for work and the rehabilitation of victims; coordinate the implementation upon approval by the appropriate body; 2) develop directives of national referral system and implementation procedure, regarding rescuing, rehabilitation, provision of support, reintegration of victims and other related matters; coordinate implementation of the same upon approval by the National Council; 3) coordinate concerned bodies for the development of policies, laws and strategies, frameworks and implementation procedures regarding internal displacement, refuges and migrations, job creation and other related matters; follow up implementation on approval by concerned body; 4) prepare programmes and action plans for realisation of its functions and responsibilities; implement on submission and approval by the National Council; 5) follow up institutions unilaterally entrusted with functions and responsibilities related with matters covered by this Proclamation as to their proper execution of such function and responsibilities; 6) periodically submit reports to the National Council; implement feedback; 7) undertake the responsibilities indicated under Article 15(2) of Proclamation No 923/2016;²¹ 8) perform other responsibilities allocated to it by the National Council.

Finally, Proclamation 11778/2020 provided the establishment of Regional Partnership Coalitions by regional states to implement its provision at the regional level, incorporating bodies relevant to their respective contexts and to be led by the justice bureau (article 35.5).

Identification and protection of victims

Regarding protection and rehabilitation of victims, article 24.1 of Proclamation No. 1178/2020 provides that victims should receive the necessary protection and support, taking into account the vulnerability of women, children and persons with mental problem and disabilities, (a) health, social services, legal and psychological counselling and support and temporary shelter, (b) have the right to information on the nature of protection and support to be accorded and status of the case during investigation and prosecution, and (c) not be detained. Under Proclamation 1263/2020, the Ministry of Women and Social Affairs provides rehabilitation support to women and children of trafficking. In 6 out of 12 regions in Ethiopia, regional police offices operate hotlines supported by the Ethiopian government in partnership with United Nations agencies such as UNFPA and UN Women, to report sexual exploitation of children.²²

Furthermore, a fund for the rehabilitation of victims has been established under article 27 of Proclamation No. 1178/2020. The fund's objective is to cover costs of medical, psychological, and legal counsel and transportation services for victims; to provide material support for them as well as technical training and support for their economic empowerment; to support them to locate their families and reintegrate them with their families and communities; to build temporary shelters; and to pay compensation determined by the court (article 29). However, the government did not report administering funds for victim services²³ and there does not seem to be a specific procedure for child survivors to apply for compensation.²⁴

Specific provisions for child protection

Proclamation No. 1178/2020 defines a child as any person under 18 years old (article 2). Acts of trafficking in persons committed against a child is an aggravated circumstance, except for child labour exploitation (article 4.3), which is defined as the act of, 'causing a child to work or provide a service in a manner other than those permitted by law or contrary to the age or physical strength of the child' (article 2.5). There are no other specific provisions besides considering children's vulnerability for the protection and support of victims of trafficking (article 24.1.a). However, 'the law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.'²⁵

There is no national code for child protection, but the Ethiopian government issued in 2000 the Revised Family Code Proclamation No. 213/2000, which dedicates chapter 12 to minors. Article 215 defines a minor as 'a person of either sex who has not attained the age of eighteen years'. The chapter also covers proof of age, organs of protection of the minor (authorities of the parents and guardianship or tutorship), and administration of the property of the minor.

Criminalisation and policies combating smuggling of migrants

Proclamation No. 1178/2020 also criminalises smuggling of persons, defined under article 8 as, 'any person who, for direct or indirect and financial or material gain for himself or for another person, enables a person to illegally enter into the territory of Ethiopia, exit the territory of Ethiopia, or to cause exit of another person from Ethiopian territory, make preparation, found in the process, transport or receive'. The text foresees a punish-

ment from 5 to 10 years' imprisonment and a fine from 10,000 to 100,000 Birr, and up to 7 to 15 years' imprisonment and a fine from 20,000 to 100,000 Birr when the act is committed against a child or a mentally ill or a physically disabled person, among other circumstances. The sentence rises to life imprisonment or death and a fine from 50,000 to 200,000 Birr where the offence caused the death of the victim. Knowingly assisting illegal stays for gain, direct or indirect, whether financial or material, is also criminalised under article 9, with an imprisonment sentence from 5 to 10 years and a fine from 10,000 to 50,000 Birr.

Finally, Proclamation No. 1178/2020 criminalises, separately from the purpose of trafficking in persons, the exploitation of the prostitution of others. Article 9 describes this offence as, 'any person for the purpose of benefiting from the prostitution or immorality of another or to gratify the sexual passions of another, causes another to engage in prostitution, acts as go between, procures, keeps in a brothel, uses or rents out his residence or place of business for this purpose or in part or uses the prostitution or immorality of another in any other manner.' Punishment is set from 1 to 5 years' imprisonment and a fine from 10,000 to 50,000 Birr.

Main strengths	Main gaps/challenges
<ul style="list-style-type: none"> • Constitutional prohibition of trafficking in human beings • Two recently established authorities, the National Council and the National Partnership Coalition on trafficking and smuggling • Protection and rehabilitation services consider child vulnerability • Hotlines in 6 out of 12 regions to report sexual exploitation of children 	<ul style="list-style-type: none"> • Anti-trafficking legislation not compliant to the international framework • No anti-trafficking action plan • Lack of consideration of the specific needs of child survivors in terms of protection, support and assistance services • Lower protection for child labour exploitation

Sudan

Relevant laws and policies	Relevant authorities
<ul style="list-style-type: none"> • Combating of Human Trafficking Act, 2014 • Child Act, 2010 • National action plan for combating human trafficking, 2021-2023 	<ul style="list-style-type: none"> • National Committee to Combat Human Trafficking (NCCT) • Khartoum Regional Operations Centre (ROCK), a partnership between the EU and the African Union • Commissioner for Refugees (COR) • Humanitarian Aid Commission (HAC)

Criminalisation and policies combating human trafficking

Sudan authorities adopted the Combating of Human Trafficking Act in 2014. The text criminalised human trafficking and prescribed between 3 and 10 years' imprisonment (article 9.1). Penalties increase to 5 to 20 years' imprisonment or death in aggravating circumstances (article 9.2.), such as when the victim is a female, a child, or a disabled person (article 9.2.c) or when the offence has a transnational character (article 9.2.f). However, the Act does not provide measures regarding protection and assistance of survivors of trafficking besides victims' and witnesses' protection during judicial proceedings (article 25) and facilitation of repatriation for alien victims (article 27). Initially, the law required the use of force, coercion, abduction, fraud, or other means to constitute an offence of child trafficking, in contradiction with international texts. In 2021, Sudan amended the law to align it with the international definition of trafficking.²⁶

The 2014 Act also established the National Committee to Combat Human Trafficking (NCCT) with the following functions and powers (article 5): (a) develop a national strategy; (b) prepare the annual budget; (c) review legislation pertaining to combating of human trafficking; (d) coordinate with officials and non-officials entities to prevent human trafficking and facilitate the repatriation of victims to their homeland; (e) disseminate awareness on issues relating to human trafficking; (f) promote the national potentials of employees in the scope of human trafficking; (g) issue, publish and circulate a national guidebook; (h) study international, regional and national reports on combating of human trafficking; (i) cooperate with officials and non-officials entities for the implementation of programmes; (j) participate with other stakeholders in international and regional conferences; and (k) assume any other functions it deems necessary for combating human trafficking. The NCCT includes members of all relevant ministries and governmental institutions.²⁷ At the sub-national level, several of Sudan's states have adopted local anti-trafficking legislation, not all of which defines the offence in the same way or prescribes the same penalties as the 2014 federal Act.²⁸

On 30 August 2021, the NCCT launched the National action plan for combating human trafficking, 2021-2023 in Khartoum. The action plan aims to combat and prevent human trafficking and exploitative smuggling, and includes the training of social workers and law enforcement border officials, the establish-

ment of safe houses and secured shelters, and access to microfinance and vocational training programmes for refugees, migrants and youth. The three-year plan also aims to revise the national legal framework according to international conventions relevant to the protection of human rights and to strengthen the NCCT so that it can fulfil its mandate in all parts of Sudan.²⁹ Sudan usually hosts the Khartoum Regional Operations Centre (ROCK), a partnership between the European Union and the African Union to collect data on migration and combat human trafficking and smuggling of migrants.³⁰ Following a coup d'état in October 2021, the ROCK had to move temporarily to Nairobi.

The U.S. Department of State promoted Sudan to a 'Tier 2' country in its latest 2021 report on trafficking in persons, asserting that overall the country demonstrated increasing efforts compared to the previous reporting period by developing its anti-trafficking capacity. The report underlines Sudan's increasing numbers of official investigations on potential trafficking cases and traffickers' convictions; amendments to the 2014 anti-trafficking law that criminalised sex trafficking as well as labour trafficking; an end of recruitment and use of child soldiers; and expansion of awareness-raising such as the enhancement of journalists' capacity to report on trafficking cases. The U.S. Department of State remains concerned by Sudan's lenient sentencing, the low number of trafficking victims identified, and allegations for the second consecutive year that officials may have sexually exploited refugees in government run camps.³¹

Identification and protection of victims

Regarding specific efforts towards vulnerable populations, officials did not report dissemination or implementation of standard operating procedures (SOPs) developed in 2018 on child trafficking victim identification. The authorities' inconsistent screening 'likely resulted in the arrests and detention of women whom traffickers forced into commercial sex'.³²

Specific provisions for child protection

The Child Act, adopted by Sudan in 2010, states in its general principles that it ensures, 'the protection of a male, or female child, against all types and forms of violence, injury, inhuman treatment, or bodily, ethical or sexual abuse, or neglect of exploitation'. The 2010 Act prohibited the recruitment of children by the armed forces or armed groups, or employment of children to participate in war actions (article 43). Article 14 of the Sudan Armed Forces Act of 2007 criminalised the recruitment of chil-

dren younger than 18 years old by members of the armed forces, enslaving civilians, or coercing civilians into prostitution, and prescribed penalties between 3 years' imprisonment and death. According to the U.S. Department of State, 'security forces ceased forcibly recruiting and using child soldiers' and the Sudanese government continued its efforts towards child protection in conflict areas by staffing the Child Rights Unit (CRU) established in 2019 with Sudanese Armed Forces (SAF) officials, providing training and raising awareness on the subject among officials.³³

The Child Act also criminalised sex trafficking (article 45) and labour trafficking (article 46.1) of children, as well as the smuggling of children for the purpose of forced labour (article 46.2). According to article 47 of the Act, for any child who is the victim of any forms of neglect, exploitation, abuse, torture, or any forms of harsh treatment, or severe, inhuman, or degrading punishment, or armed conflicts, the state should respond appropriately to achieve the child's physical and psychological rehabilitation and social re-accommodation, conducted in an environment that may strengthen the child's health, self, dignity and respect.

Criminalisation and policies combating smuggling of migrants

Sudan did not adopt a standalone smuggling law as part of its national framework, which has resulted in the conflation of migrant smuggling and human trafficking because authorities only use the 2014 Act on Combating Human Trafficking and sometimes misidentify victims of smuggling as victims of trafficking.³⁴

Main strengths	Main gaps/challenges
<ul style="list-style-type: none"> • Legislation on human trafficking, recently aligned with the international definition • National action plan for combating human trafficking launched in 2021 • Prohibition of the recruitment of children in armed forces and enforcement by staffing the Child Rights Unit within the Sudanese Armed Forces 	<ul style="list-style-type: none"> • Not a party to the Palermo Protocol against smuggling and no standalone legislation on smuggling, resulting in the conflation of migrant smuggling and human trafficking • No provisions regarding protection and assistance of victims • No dissemination or implementation of SOPs developed in 2018 on identification of victims of child trafficking • Inconsistent screening of victims by authorities, resulting in arrest and detention of survivors

Tunisia

Relevant laws and policies	Relevant authorities
<ul style="list-style-type: none"> • Organic Law on the prevention and fight against trafficking in persons, 2016 • Child Protection Code, 1995 • Strategy on combating trafficking, 2018-2023 • Mécanisme national d'orientation (national referral mechanism) 	<ul style="list-style-type: none"> • L'instance nationale de lutte contre la traite (national authority on combating trafficking) • Child protection delegates in each governorate

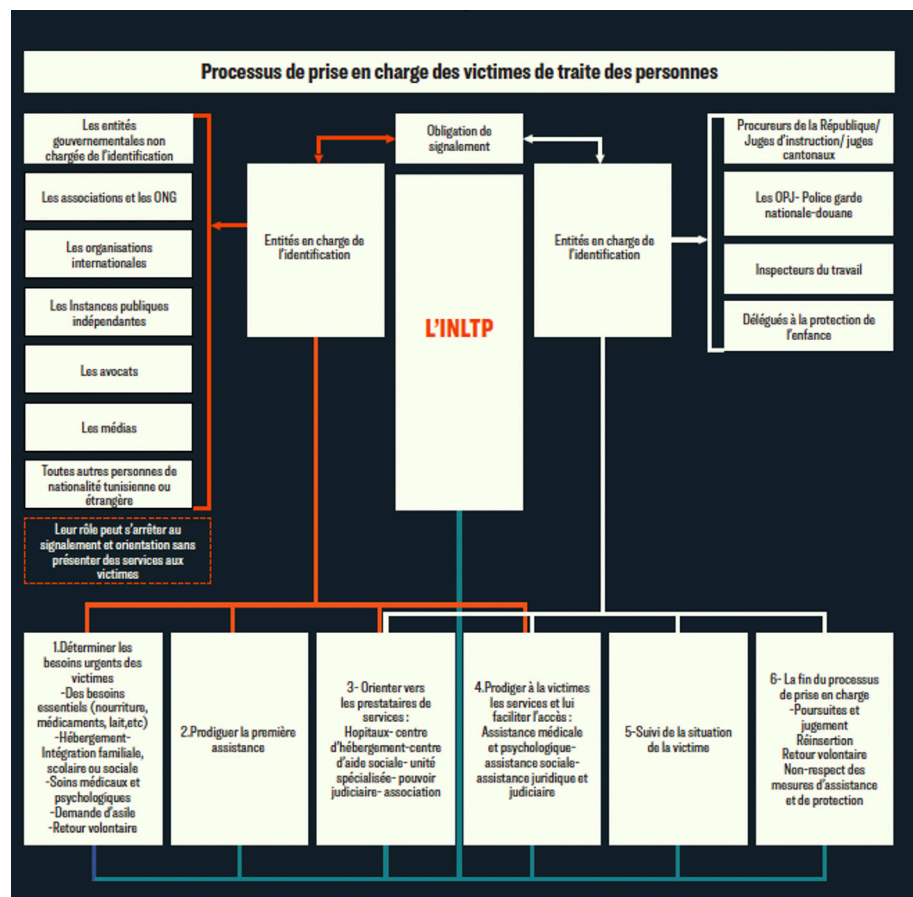
Criminalisation and policies combating human trafficking

Tunisia is affected by both domestic and transnational trafficking. The country's anti-trafficking legal frameworks and policies are well-advanced. Tunisia passed a law in 2016 relating to the trafficking in persons, which criminalised human trafficking and prescribed penalties of 10 years' imprisonment and a fine of 50,000 dinars for offenses involving adult victims, and 15 years imprisonment and a fine of between 50,000 to 100,000 dinars for offenses involving child victims. The incrimination and level of penalties are in accordance with international and regional frameworks and recommendations. The text of the law covers domestic and transnational trafficking and explicitly recognises the specific vulnerability of some victims, such as children and foreigners in an illegal situation (article 2 of the 2016 law).

In 2017, l'instance nationale de lutte contre la traite (national anti-trafficking authority) provided by the 2016 law was created. Its main missions are the elaboration of a national referral mechanism as well as leading public policies to coordinate identification, support and protection of victims, demand reduction and prosecution of authors. In February 2018, the Council of Europe invited Tunisia to accede to the Convention on Action Against Trafficking in Human Beings. Following this accession, the national authority launched a strategy on combating trafficking covering the 2018-2023 period.

In December 2021, Tunisia launched a national referral mechanism (mécanisme national d'orientation, or MNO) with the support of the European Union and the Council of Europe, as part of a joint programme from 2019 to 2021 called Projet d'Appui aux Instances Indépendantes en Tunisie (Support Project for Independent Bodies in Tunisia, or PAII-T). It is the first mechanism of its kind in the Middle East and North Africa region, which

aims to use a human rights-based approach to better identify survivors of trafficking, refer them to appropriate services, and provide them with the protection they need. It also constitutes a multisectoral cooperation mechanism in which each stakeholder undertakes to respect their legal obligations to the protection of human rights in general, and the rights of victims of trafficking in particular, considering the specific needs of women and children.³⁵ Several tools were created, In both Arabic and French, as part of the launch of the mechanism: passports and cards on victims' rights, a list of general and specific indicators of trafficking in persons, a victim interview kit, a guide on support and reinsertion of victims, a booklet on challenges relating to the detection of victims, and a dedicated website.³⁶



Mécanisme national d'orientation des victimes de la traite des personnes en Tunisie, December 2021

Identification and protection of victims

Tunisia's national anti-trafficking authority, based in Tunis, is the country's only authority in charge of formal identification of foreigners who are victims of trafficking. To date, there are no regional offices with this authority and survivors have to travel by their own means to Tunis to be identified and supported as a victim of trafficking, which hinders support to victims.³⁷ With the launch of the MNO (national referral mechanism) in December 2021, the national authority plans to establish regional offices to help implement their new mechanism. Article 14 of the 2016 law prescribes one year imprisonment and a 5,000 dinars fine for anyone who knowingly fails to report to the competent authorities acts or situations of trafficking of which they had knowledge. In case the victim is a child, the professional secrecy clause that is applied in cases relating to adults no longer applies, and anyone has the obligation to report.

Chapter IV of the 2016 law is dedicated to measures of protection and assistance for victims. This includes physical and psychological support for survivors, witnesses, whistle-blowers and their families (article 50); specific measures during the investigation and the trial such as use of audio-visual means of communication for sensitive hearing or anonymity (articles 51 to 58), free medical care (article 59);³⁸ free social assistance and reinsertion and housing (article 60); legal information on judicial and administrative proceedings in a language that is understood and assistance in accessing rights (article 61); legal aid (article 62); the right to compensation (article 63); a recovery and reflection period of one month, renewable once, during which repatriation is prohibited (article 64); assisted voluntary return, and granting or extension of temporary residence (article 65).

Despite all these efforts to put in place a thorough legal framework on human trafficking, Tunisia reported no prosecution nor conviction of traffickers in 2020 for the second consecutive year and victim support outside of Tunisia's major cities remain limited.³⁹ The government ran 79 youth centres around the country that provided psycho-educational services to at-risk children aged 6 to 18 years old, including child trafficking victims, one of which was dedicated solely for abandoned or otherwise vulnerable children, including child trafficking victims; however, the government did not report if any child trafficking victims received assistance at this centre during the reporting period.⁴⁰

Specific provisions for child protection

The 2016 law explains that children remain subject to the Child Protection Code for all human trafficking and related offenses (article 4). The code provides for a child protection delegate in each governorate (article 30). The delegate is responsible in all cases where it turns out that the health of the child or their physical or moral integrity is threatened or exposed to danger, in particular in difficult situations (article 20) including where a boy or girl has been a victim of sexual exploitation (article 25), where the child has been exploited in the context of organised crime (article 19), and cases of begging and economic exploitation (article 26). The code also says that professional secrecy doesn't apply in these situations, and anyone has the obligation to report such cases (article 31).

Chapter IV of the national referral mechanism launched in late 2021 focuses on the protection and assistance of victims of trafficking and includes specific considerations for the child and foreign victims, as well as other tools developed by the national authority such as the guide on support and reinsertion of victims. The mechanism reminds that in case of uncertainty about the age and if there are reasons to believe that the victim is a minor, they should be considered as a minor and be protected pending final verification of their age. If the child is a foreigner and unaccompanied, competent structures must offer them appropriate protective measures such as the designation of a legal guardian and the search for their family if it is in the child's best interest. Specialised child care structures intervene in the situations of child victims of trafficking and the text recalls that in Tunisian law, all children enjoy the same rights regardless of their nationality.

Criminalisation and policies on irregular migration

Regarding the law regulating the entry, stay and exit of foreigners in Tunisia, one of the principal challenges for migrants is the fine of 20 dinars per week for an illegal stay (law 1968). For foreigner victims of trafficking identified as such by the national authority, the 2016 law provides that they can apply for an exemption from payment. Moreover, a maximum fine of 3,000 dinars was set in 2017.⁴¹ For victims of trafficking, the 2016 law provides the granting or extension of a temporary stay, but only covering the duration of the legal proceedings. In practice, no specific residence permit has been created for this category of people and it is rather a tolerated stay.⁴²

Main strengths	Main gaps/challenges
<ul style="list-style-type: none"> • Very well-advanced anti-trafficking legal and policy framework • National referral mechanism launched in December 2021 with several other tools (including indicators of trafficking and an interview guide) • Direct intervention of the national authority on combating trafficking to identify victims, independently from law enforcement authorities • Separation from stakes of smuggling when identifying victims and providing support services • Recognition of the vulnerability of migrants as part of the trafficking offence • Seen as a model in the MENA region: Libyan authorities are seeking to develop a similar model in their country⁴³ 	<ul style="list-style-type: none"> • Low implementation of legislation and policy outside of Tunis, difficulty to access support services for victims outside of Tunis • High fines for illegal stay • No prosecutions or convictions for two consecutive years • No provision of a specific residence permit for victims of trafficking, uncertainty of their status • Lack of clarity on unaccompanied children and their status in Tunisia at the end of the legal proceedings • No specific provision on child VoTs



Endnotes

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- 2 U.S. Department of State. (2021). Trafficking in Persons Report.
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- 4 U.S. Department of State. (2021). Trafficking in Persons Report.
- 5 U.S. Department of State. (2021). Trafficking in Persons Report.
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- 9 Article 116, Law No. 12 of 1996 concerning the Child Law.
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- 26 U.S. Department of State. (2021). Trafficking in Persons Report.
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- 30** Sudan Ministry of Interior. (2021). National Review of the Republic of Sudan To implement the Global Compact for Migration.
- 31** U.S. Department of State. (2021). Trafficking in Persons Report.
- 32** U.S. Department of State. (2021). Trafficking in Persons Report.
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- 36** Conseil de l'Europe. Bureau du Conseil de l'Europe à Tunis. Instance Nationale de Lutte contre la Traite des Personnes (INLTP).
- 37** France terre d'asile. (2020). Regards sur la traite transnationale des êtres humains en Tunisie. Observations du projet de renforcement des capacités des OSC pour mieux lutter contre la traite en Afrique.
- 38** According to France terre d'asile, no decree was published, and this provision is not applied. FRANCE TERRE D'ASILE. (2020). Regards sur la traite transnationale des êtres humains en Tunisie. Observations du projet de renforcement des capacités des OSC pour mieux lutter contre la traite en Afrique.
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- 42** France terre d'asile. (2020). Regards sur la traite transnationale des êtres humains en Tunisie. Observations du projet de renforcement des capacités des OSC pour mieux lutter contre la traite en Afrique.
- 43** KII with Oliver Peyroux

