

Reassessing the Palermo Protocol: Emerging Gaps in Prevention, Protection and Prosecution in the Digital and Conflict Era

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Abstract

Trafficking in Persons (TIP) remains one of the most heinous transnational crimes that have evolved within the digital and conflict-driven landscape. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol), constitutes the primary international legal instrument in the fight against TIP. While the Protocol establishes a tripartite framework of prevention, protection and prosecution, emerging global realities have exposed significant gaps hindering its effectiveness. This study adopts a qualitative research methodology and a doctrinal method to reassess the Protocol in light of contemporary trafficking dynamics. It argues that despite the Protocol's contribution to the harmonisation of legal trafficking definitions and its influence in the development of national anti-trafficking laws, digitalisation, armed conflicts and displacements have revealed structural gaps. The study suggests that the Palermo Protocol is outdated as it was initially designed for a state-centric system focused primarily on physical forms of trafficking. In contrast, contemporary trafficking is increasingly transnational, technologically-facilitated and embedded within conflict situations. The paper concludes that while the Protocol remains foundational, it requires substantial normative and institutional strengthening to meet the current digital and conflict related trafficking. The study therefore recommends the adoption of supplementary guidelines to address technology-facilitated trafficking, legal responses to conflict-related exploitation and the adoption of a more adaptive, victim-centered approach capable of capturing emerging forms of trafficking.

Keywords: Palermo Protocol, prevention, protection, prosecution, digital, conflict

1. Introduction

Trafficking in Persons, often described as modern-day slavery, dates back to the era of the Trans-Atlantic Slave Trade.¹ This phenomenon has evolved into a complex and highly organised crime, affecting millions of individuals and generating huge illicit profits for criminal networks.² It continues to pose a threat to global security, human rights and development. In response to the growing global plight, the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons especially Women and Children was adopted by the UN General Assembly in 2000 and entered into force on December 25th, 2003 as a supplementary instrument to the United Nations Convention on Transnational Organised Crime and Drugs.³ The Protocol introduced a unified legal framework built on three core pillars to prevent trafficking, protect victims and punish offenders.⁴ This is

¹ Gallagher, A. (2010). *The International Law of Human Trafficking*. New York: Cambridge University Press, p. 1.

² Shelley, L. (2014). *Human Trafficking: A Global Perspective*. Cambridge University Press.

³ United Nations.

⁴ Gozdziaik, E. (2020). Palermo at 20: Retrospective and Prospective. *Journal of Human Trafficking*, 6(2), 109-118.

known as the 3(P) approach. Its adoption marked a significant milestone in harmonizing international anti-trafficking efforts. However, over two decades after its adoption, the effectiveness of the Protocol is increasingly questioned. This raises concerns as to whether the Protocol adequately responds to armed conflicts, internal displacements and the rapid advancement in technology. The study highlights that while the Palermo Protocol is a foundational instrument in combatting trafficking in persons, it is structurally limited in addressing modern dynamics of the phenomenon and therefore requires a revision. For a more robust anti-trafficking framework, there is a need for the Protocol to reflect the harsh realities of trafficking in contemporary societies in order to effectively strengthen its prevention, protection and prosecution pillars.

2. Statement of the Problem

Despite an almost universal ratification of the Palermo Protocol, trafficking in persons continues to expand especially in conflict zones and in the contemporary digital landscape.¹ The Protocol's state-centric and peacetime framework renders it inadequate in addressing trafficking dynamics in conflict economies, where state authority is fragmented and non-state actors dominate. This raises questions about the continued effectiveness of the Protocol in contemporary societies.

3. Definition of Trafficking in Persons

The Palermo Protocol defines trafficking in persons in Article 3 as;

a) The recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, or fraud, of deception, or the abuse of power or of 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, manipulation or implantation of organs.

4. Methodology

The study employs the qualitative research methodology which analysis non-numerical data. The study examined the normative strengths and weaknesses of the Palermo Protocol. It adopts the doctrinal method of content analysis. The doctrinal approach is suitable for this study because primary data was obtained from treaties while secondary sources of data were obtained through journal articles, textbooks, policy reports and websites. This method is particularly suitable as it allows for a critical evaluation of the legal adequacy of the Protocol in light of emerging global realities.

5. Overview of the Palermo Protocol

The Palermo Protocol is relevant in codifying international anti-trafficking rules. The Protocol has three objectives; Prevention of trafficking, Protection of victims and the Prosecution of offenders.

5.1 Prevention

The prevention of trafficking requires States to engage in measures that address the root causes of trafficking in order to prevent it from happening. Effective prevention begins by tackling the very conditions that create vulnerability.² States are called to sensitise their populations on their fundamental human rights. This can be done through sensitisation in schools, seminars, workshops and media campaigns in order to raise awareness on the phenomenon. Sensitisation campaigns can reveal recruitment tactics used by traffickers and the risks exposed in irregular migration. Preventing measures can equally be done by providing quality access to education, alleviating poverty through poverty reduction schemes so as to reduce vulnerabilities of women and children especially. States are also called to prevent trafficking by enacting legislation and ensuring they align with international anti-trafficking standards.³ Additionally, preventive measures can be done by engaging local and religious leaders to educate their people on their basic human rights, the need to respect the fundamental rights of others and a wake-up call to be vigilant to trafficking schemes as they carry out their daily activities.

5.2 Protection

The second objective of the Palermo Protocol focuses on the protection of victims. Once victims are identified, they require immediate and long-term assistance. The protection of victims consists of providing assistance to ensure their bodily and psychological integrity. This includes providing them with proper shelter, food, clean

¹ Trafficking in conflict and humanitarian crises, <https://www.ohchr.org/en/special> last accessed 24th March, 2026.

² 25 Years On: Rethinking the Palermo Protocol, <https://www.beslaveryfree.com> last accessed 24th March, 2026.

³ Palermo Protocol, 25 Years On, the fight goes on, <https://www.lastrada> last accessed 24th March, 2026.

water and enabling them to receive therapy/counseling sessions when needed.¹ Moreover, protecting victims also requires protecting their confidentiality and privacy. Names of victims are not to be disclosed to the public, neither are their images to be taken and shown to the public. Ethical considerations must be done when caring for victims. If a victim at any point decides to share their story to the public, they must be carefully protected. Additionally, in cases where the victim is a child, special protection is required since they are more vulnerable than adults.²

5.3 Prosecution

The prosecution of perpetrators comprises the criminalisation of all forms of trafficking in human beings globally.³ This involves the need for proper implementation of anti-trafficking laws and ensuring the right procedures are followed with regards to pre-trial investigation and criminal proceedings. Per Article 5 of the UN Palermo Protocol, States are required to adopt legislation to criminalise trafficking. Domestic laws must clearly define trafficking in persons, follow international standards and outline their penalties. In Cameroon for example, trafficking has been criminalised through No. 2016/007 Relating to Trafficking in Persons. When it comes to prosecution, investigations are prioritised. Trials ought to be done fairly to avoid re-victimisation.

6. Strengths of the Palermo Protocol

The Palermo Protocol over the last 26 years has been a significant instrument in the fight against trafficking in persons.

6.1 Comprehensive Definition of Trafficking in Persons

The Palermo Protocol provided the first ever comprehensive definition of trafficking in persons and the parameters on who constitutes a victim.⁴ It is in fact an international legal framework that serves as a benchmark for States to take action. In the definition of trafficking, the Protocol addresses the key elements necessary to categorise trafficking in persons. It talks of the act (recruitment, transportation, harbouring), the means (coercion, fraud, deception) and the exploitation of victims (abuse, violence).⁵ This enhances legal clarity and effective identification of trafficking cases. States are able to differentiate trafficking from other from other related concepts.

6.2 Lays Down Standards for States and Criminalises Trafficking in Persons

It categorizes trafficking as a crime of transnational nature. States are duty-bearers and have the responsibility to ensure rights-holders enjoy their fundamental rights. The main objective of the Protocol as mentioned in Article 2, are to (a) prevent trafficking in persons (b) protect and assist the victims (c) promote cooperation among States to prosecute offenders. This is a holistic approach in addressing trafficking in persons as it aims at stopping the phenomenon from happening, caring for those who are already affected and punishing those who participated in the exploitation.

6.3 Recognition of Child Trafficking as a Unique Type of Trafficking

The Palermo Protocol considers children as distinct from adults. It is believed that children are more docile and easily manipulated than adults.⁶ Children are persons below the age of 18 years per the Convention on the Rights of the Child, 1989. The Palermo Protocol defines trafficking in children as the recruitment, transfer, harbouring or receipt of persons below the age of 18 for exploitation. From this established threshold, it is clear that when it comes to the methods for child trafficking; only the act element and the exploitation elements are necessary. The means through which a child is recruited is always irrelevant.

6.4 Promotes Collaboration Among States

Palermo Protocol recognizes trafficking in persons as a transnational organised crime happening across States. When crimes are not only limited to the territory of a particular state, it becomes clear that the country cannot address that issue alone. Palermo calls on State Parties to intensify efforts and collaborate with each other towards the fight against trafficking. It brings out the fact that trafficking is often run by a network/syndicate of

¹ Stock, H et al. (2021). Human Trafficking and Violence: Findings from the largest global dataset of trafficking survivors. *Journal of Migration and Health*, 4.

² Mbella, N., & Mbella, M. (2025). Child Trafficking in Conflicts: An Appraisal of Cameroon's Legal Framework. *Journal of Tertiary and Industrial Sciences*, 5(1).

³ Farell, A., et al. (2016). The Prosecution of State-Level Human Trafficking Cases in United States. *Anti-Trafficking Review*, (6), pp. 48-70.

⁴ Gallagher, A. (2015). Two Cheers for the Trafficking Protocol. *Anti-Trafficking Review*, (4), pp. 14-32.

⁵ Gallagher, A. (2017). *Human Rights and Human Trafficking*. Cambridge University Press.

⁶ Brownie, L. (2021). Child Sex Trafficking: Strategies for Identification, Counseling and Advocacy. *Int J Adv Couns*, 43(2), pp. 113-125.

criminals and eliminating it requires the willingness and collective effort of all States. Some countries serve as countries of origin (where people are sourced) others as transit nations (transportation routes) and others as destination countries (where they are finally taken to and exploited).¹ The Protocol places the burden on States to collaborate in fighting the ill.

7. Weaknesses of the Palermo Protocol

7.1 State-Centric Nature

The Protocol is heavily dependent on State capacity and willingness to combat trafficking. This means if a state lacks the willpower to implement the provisions of the Protocol and is plagued by corrupt law enforcers, there is a tendency the phenomenon will continue to thrive in such an area. Although States are the primary subjects in international law, organisations like non-state actors, NGOs, community based groups, media platforms and the public are actively needed in the fight against trafficking. There is need for the Protocol to specifically address non-state actors and also provide responsibilities for their effective participation in the global fight.

7.2 Fails to Address the Possibility of the Breakdown of Institutions in Conflicts

The Protocol was adopted in 2000 at a time many States were not experiencing armed conflicts. In recent years, there has been an upsurge of conflicts among nations.² Conflicts influence the specific forms and manifestations of trafficking. Conflicts exacerbate trafficking in several contexts; people are trafficked into conflict zones, people are trafficked within conflict zones and people are trafficked out of conflict zones. Conflicts create favourable conditions for traffickers to prey on. The Protocol assumes countries have strong structural institutions in place to fight trafficking in persons, whereas many states lack it. The Protocol failed to take into consideration the possibility of a break in State institutions as a result of conflicts or natural disasters. In conflict zones such as the Anglophone Conflict in the English Speaking Regions of Cameroon, States have limited control over certain communities. This is largely due to insecurities, killings, attacks and bombing by separatists. The Protocol assumes States have well-functioning law enforcers, police and functioning courts. However, this is not always the reality as conflicts lead to the breakdown of such institutions. The prevention, protection and prosecution of trafficking in conflict areas requires more collaboration, security and strengthening of enforcement.

7.3 The Emergence of Non-State Armed Groups/Actors

The Protocol did not take into consideration the role played by non-state armed groups in the escalation of trafficking. Armed groups recruit children, force them into labour and exploit civilians. While the Palermo Protocol establishes a comprehensive framework for combating trafficking, its effectiveness is undermined by the growing influence of non-state armed groups/actors that operate beyond traditional state control and regulatory mechanisms. The increasing role of non-state actors including drug and weapons syndicates, armed groups and digital intermediaries has transformed trafficking into a more complex and adaptive phenomenon, challenging the traditional enforcement envisaged by the Palermo Protocol.

7.4 Failure to Address Structural Drivers

The prevention of trafficking objective under the Palermo Protocol emphasises the need for raising public awareness and adopting favourable socio-economic measures in the fight against trafficking. Traffickers prey on the vulnerabilities of people which are most often triggered by poverty, loss of livelihoods and conflict displacements. Yet, the Protocol does not sufficiently account for measures in which extreme poverty, conflict and displacements can be reduced. Conflict environments create heightened vulnerability, yet there is no tailored mechanism in the Protocol to address this particularly.

7.5 Focuses on Trafficking as a Transnational Organised Crime

While the Palermo Protocol formally applies to both internal and transnational trafficking, its structural alignment with transnational organised crime results in a disproportionate focus on cross-border trafficking. This limits the effectiveness in addressing internal trafficking dynamics, particularly in conflict situations where it is more prevalent. Modern-day trafficking is increasingly internal occurring in decentralized networks. Failing to specifically address such concerns is a gap which affects the proper implementation of the prevention pillar.

7.6 Inadequacy in Addressing Modern Digital Trafficking Trends

The Protocol was adopted in 2000 at a time when technology had not evolved so rapidly. There was mainly physical recruitment of victims, face-to-face coercion and movement across borders. In recent years, globalization and the rapid increase in technology has led to the development of new strategies traffickers use in

¹ Co-responsibility between countries of origin, transit and destination, <https://www.martenscentre> last accessed 24th March, 2026.

² Ibragimov, K. (2024). The Nature of Social Conflict. *American Journal of Social Sciences and Humanity Research*, 4(2), pp. 73-81.

recruiting their victims.¹ Traffickers use social media platforms and messaging apps such as WhatsApp, Tiktok, Facebook, Instagram for fake job adverts, scholarships and romance scams leading to exploitation.² The implication of Palermo Protocol on this modern development is that the Protocol does not explicitly address online recruitment. Its framework assumes physical movement and territorial control. Unlike traditional trafficking which was done physically, in contemporary times physical movements may not necessarily take place. People can be exploited sexually online making it harder to trace and prosecute perpetrators. Digital trafficking poses new threats to effective prevention and prosecution as law enforcers often lack the technological expertise to identify anonymous criminal networks online.

7.7 Survival Trafficking

Survival Trafficking has emerged as a contemporary reality due to the convergence of armed conflict, displacement and economic instability.³ In such contexts, exploitation is often driven not by organised criminal structures but by systemic pressures that compel individuals to engage in exploitative arrangements as a means of survival.⁴ In conflict affected areas, people exchange labour and sex for survival.⁵ When they are in need of basic needs like food, shelter, they may resort to survival sex just so they can live.⁶ This blurs the line between trafficking and survival strategies because although the notion of survival trafficking falls under the abuse of vulnerability in the Protocol, it frequently escapes recognition due to the absence of identifiable perpetrators and the nature of social coercion. Are survival trafficking victims actually victims? Should they be prosecuted? Are they entitled to special protection because of their vulnerability? These are some of the many unanswered questions the Protocol needs to address given the realities of the world today. There is a need for context-sensitive interpretation of trafficking, one that adequately reflects structural coercion.

7.8 No Monitoring Body to Follow up States

State Parties to the Protocol do not have a specific body to monitor their compliance with anti-trafficking provisions. This often leads to passivity among states as they are not accountable to anyone. It is usually in their discretion to determine when and how they want to carry out their anti-trafficking projects. With the urgency of this global issue, States should not be left to operate on their own but should be strictly monitored and allowed to make regular reports.

8. Conclusion

The Palermo Protocol marked a significant milestone in international anti-trafficking efforts. While the Palermo Protocol represents the landmark treaty in combatting trafficking in persons, its effectiveness is increasingly challenged by contemporary realities that were not anticipated at the time of its adoption.⁷ Conflict-driven vulnerabilities and technology-facilitated trafficking represents significant gaps that limit its relevance in modern contexts. Addressing these gaps will require a shift from static legal framework to a more adaptive and responsive approach.

9. Recommendations

9.1 Incorporation of Conflict-Sensitive Provisions

There is the need to revise the Palermo Protocol to incorporate specific provisions addressing trafficking in conflict and post conflicts environments. These provisions should recognize the realities of weakened state structures, the role of non-state armed groups and the increased vulnerability of internally displaced persons. A conflict sensitive response will ensure anti-trafficking responses remain effective even in situations where the state authority is fragmented.

¹ Zhang, S. (2022). Progress and Challenges in Human Trafficking Research: Two Decades after the Palermo Protocol. *Journal of Human Trafficking*, 8(1), pp. 4-12.

² Why Technology Facilitated Trafficking of Children Poses Growing Risks in Czecha, available at <https://www.czechia.iom.int> last accessed 24th March, 2026.

³ Iwegbu, J. et al. (2025). Survival Sex as a Coping Mechanism: A Sociological Study among Economically Vulnerable University Students. *Asian Journal of Advanced Research*, 19(7), pp. 204-214.

⁴ Preble, K. (2025). Understanding Survival Sex Engagement Among Sexual and Gender Minority Young Adults Experiencing Homelessness: A Seven-City Study Using Individual and Social Network Perspectives. *Journal of Human Trafficking*, 4.

⁵ What is Survival Sex? <https://www.changing-lives.org.uk> last accessed 24th March, 2026.

⁶ Survival Sex, Resource Beyond the Streets, <https://beyondstreets.org.uk>, last accessed 24th March, 2026.

⁷ Henna, S. (2025). The Palermo Protocol: An Ineffective Treaty for Holding Human Traffickers Criminally Accountable and Protecting Victims of Human Trafficking. *Arizona Journal of International Comparative Law*, 438.

9.2 Expansion Beyond State-Centric Framework

There is the need for the Palermo Protocol to be revised in order to move beyond the state-centric approach of combatting trafficking. The Protocol needs to recognize that different groups are also involved in trafficking dynamics; non-state actors, informal networks, and private entities. There is a need to regulate the activities of all these persons and ensure accountability.

9.3 An Establishment of a Monitoring and Compliance Mechanism

To address enforcement gaps, there is a need for the establishment of an independent international monitoring body responsible for assessing State compliance with the Protocol. It would enhance accountability and reduce passive implementation by States. When States are aware that they are required to give regular reports on compliance or they are aware they might have impromptu checks from representatives, their efforts must be strengthened.

9.4 Regulation of Digital Platforms and Technology

With the rise of technology facilitated trafficking, the Protocol should be updated to include binding obligations on digital platforms to monitor, report and prevent trafficking related activities.

9.5 Capacity Building

States should invest in specialised training for law enforcement agencies in digital investigations and cybercrime detection. This will improve victim identification and help in the implementation of the Palermo Protocol.

9.6 Increase Victim Protection in Conflicts

There is a need to strengthen protection mechanisms for victims especially in conflict areas like safe shelters, psychosocial support and sustainable reintegration programs. Victims must have rights beyond the ones included in the Protocol like the right to be identified quickly, immediate protection and support, right to legal information and the need to decide whether and how to cooperate with the prosecution of offenders.

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