

Protecting victims between international commitment and the humanitarian dimension :the Palermo Protocol to Combat Human Trafficking as a model

حماية الضحايا بين الالتزام الدولي والبعد الإنساني: بروتوكول باليرمو أنموذجاً

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Abstract:

الملخص:

The study emphasizes the human-centered dimension of international legal mechanisms and the role of national institutions in enhancing protection through legislative and procedural measures.

It adopts a descriptive-analytical approach to examine the Protocol's provisions and State Parties' obligations.

This study confirms that the Palermo Protocol is a pivotal milestone in the development of the international legal framework to combat human trafficking, as it combines the security dimension represented in prosecuting perpetrators, and the humanitarian dimension aimed at protecting victims and preserving their dignity.

Keywords: Palermo Protocol, Human Trafficking, Victim Protection, Organized Crime, International Obligations.

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تهدف الدراسة إلى إبراز البعد الإنساني في الآليات القانونية الدولية، مع تسليط الضوء على دور المؤسسات الوطنية في تفعيل هذه الالتزامات عبر تطوير الأطر التشريعية والإجرائية، بما يضمن تعزيز حماية الضحايا وتحقيق العدالة الإنسانية.

تعتمد الدراسة منهجاً وصفيًا تحليليًا لقراءة أحكام البروتوكول ذات الصلة بحماية الضحايا وطبيعة الالتزامات الواقعة على الدول الأطراف.

تؤكد هذه الدراسة أن بروتوكول باليرمو يمثل علامة فارقة في تطوير الإطار القانوني الدولي لمكافحة الاتجار بالبشر، حيث أنه يجمع بين البعد الأمني المتمثل في مقاضاة الجناة، والبعد الإنساني الذي يهدف إلى حماية الضحايا والحفاظ على كرامتهم.

الكلمات المفتاحية: بروتوكول باليرمو، الاتجار بالأشخاص، حماية الضحايا، الجريمة المنظمة، الالتزامات الدولية.

1- Introduction

In recent decades, the world has witnessed a significant increase in human trafficking, considered one of the most dangerous forms of transnational organized crime due to its profound social, economic, and humanitarian impacts on societies and individuals. This phenomenon involves the exploitation of women, children, and men in forced labor, sexual exploitation, and other practices that violate basic human rights and expose victims to long-term physical and psychological harm. Since the 1990s, the international community has recognized that combating this crime cannot succeed without protecting victims and ensuring their human and legal rights. In addition to prevention efforts, attention has also been given to providing victims with assistance (Mabrouk, 2023, p. 89). This recognition has led to the development of advanced international legal instruments, most notably the Palermo Protocol supplementing the United Nations Convention against Transnational Organized Crime (United Nations, 2000).

The Palermo Protocol is fundamental international legal instrument designed to combat human trafficking, developed in response to the global rise of this phenomenon. It establishes clear standards for victim protection and defines the legal obligations of State Parties. The Protocol also aims to strengthen international cooperation through judicial coordination, information exchange, and technical support, while emphasizing the humanitarian dimension and safeguarding victims' rights throughout investigations and trials. Special attention is given to preventing forced return to countries where victims may face risks, ensuring their dignity, and protecting their psychological and social well-being, recognizing victims as vulnerable individuals who require special measures that consider their humanitarian and social circumstances.

In this context, the study raises the following central question: To what extent does the Palermo Protocol contribute to protecting victims and clearly defining the important international obligations of State Parties, and what is the actual impact of these obligations on national implementation in effectively guaranteeing victims' rights? This question is crucial for understanding the relationship between international legal texts and their practical effect on victim protection, considering the legal, administrative, and social challenges that States Parties may encounter when applying the Protocol on the ground.

The objectives of the study are as follows :

- Highlighting the international legal framework for the protection of victims in accordance with the Palermo Protocol and analyzing the most important rights granted to them.
- Study the international obligations imposed on States Parties and how to implement them in national legislation.
- Highlighting the humanitarian and social dimension of international law, and the role of victims as a fundamental axis in achieving international criminal justice, while studying the practical challenges in implementing the Protocol.

The study is based on a descriptive legal approach, based on analyzing the legal texts contained in the Palermo Protocol and extrapolating its provisions relating to victims, with a focus on the nature of the international obligations it imposes on States Parties.

2-International legal framework for victim protection

2-1-Definition of the protocol and its importance

The Palermo Protocol supplementing the United Nations Convention against Transnational Organized Crime (2000) constitutes one of the basic international legal instruments to combat trafficking in persons. This Protocol is an international framework that sets standards and obligations that States Parties must adhere to, ensuring unified efforts at the international level to combat this complex, multidimensional crime.

This Protocol includes the following parts(United Nations, 2000):

➤ General provisions

- **Article1:** Relationship with the United Nations Convention against Transnational Organized Crime
- **Article 2:** Statement of purpose
- **Article 3:** Use of terminology
- **Article 4:** Scope of application
- **Article 5:** Criminalization.

➤ Protection of victims of human trafficking

- **Article 6:** Assistance and protection for victims of trafficking in persons
- **Article 7:** Status of victims of trafficking in receiving countries

- **Article 8:** Repatriation of victims of trafficking in persons
- **Prevention, cooperation, and other measures**
- **Article 9:** Prevention of trafficking in persons
- **Article 10:** Exchange of information and training
- **Article 11:** Border measures
- **Article 12:** Document security and control
- **Article 13:** Legality and validity of documents
- **Final Provisions**
- **Article 14:** Condition for retention of rights
- **Article 15:** Dispute Settlement
- **Article 16:** Signature, ratification, acceptance, approval and accession
- **Article 17:** Entry into force of the Protocol
- **Article 18:** Amendment
- **Article 19:** Withdrawal
- **Article 20:** Depositor and languages

The Protocol gains strategic importance as a comprehensive international legal reference that combines the security dimension and the humanitarian dimension, and emphasizes the commitment of States Parties to applying the highest standards of victim protection at the national and international levels.

2-2-Objectives of the Protocol

The Palermo Protocol aims to establish an effective international legal framework to combat trafficking in persons, with a focus on protecting victims and enhancing cooperation between States Parties. Its objectives, set out in Article 2, are as follows(United Nations, 2000, p. 2):

- Prevent and combat trafficking in persons, paying particular attention to women and children ;
- Protect and assist victims of such trafficking, with full respect for their human rights ;
- Strengthening cooperation between States Parties in order to achieve these goals.

It should be noted that the crime of human trafficking is all uses and actions that make a person a commodity or a victim that are disposed of by professional intermediaries across national borders, with the aim of exploiting him in low-paid work, or in sexual or similar work, whether this behavior is voluntary from the victim or coerced by him, in any other form

of slavery(Ben Saleh, 2019, p. 73). This crime is considered a crime against humanity, because human trafficking is a flagrant violation of the entire system of human rights, moral and religious values and teachings, and the personal insecurity it produces(Ben Messahel & Salem, 2020, p. 110).

The Palermo Protocol represents the frame of reference for international policies and procedures related to combating human trafficking, and places the victim at the center of international attention, so that efforts are not limited to prosecuting perpetrators, but also include comprehensive protection for victims, enabling them to participate safely in the judicial system, and ensuring their dignity and human rights. Various Arab countries sought to ratify this protocol and worked to combat the crime of human trafficking by issuing their own national laws.

2-3-Victim rights under the Protocol

The Palermo Protocol supplementing the United Nations Convention against Transnational Organized Crime emphasizes the protection of victims from all forms of exploitation and threats, as reflected in Article 6, which sets out the legal obligations of States Parties to assist and protect victims of trafficking in persons as follows(United Nations, 2000, pp. 3-4):

- In appropriate cases, and to the extent permitted by the national law of each State Party, the State must protect the privacy and identity of victims of trafficking in persons, including;
- Each State Party shall ensure that its national legal or administrative system contains measures that provide victims, in appropriate cases :
 - (A) Information about relevant judicial and administrative procedures ;
 - (b) Assist to enable their views and concerns to be presented and taken into account at appropriate stages of criminal proceedings against perpetrators, in a manner that does not prejudice the rights of defence;
- Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims, including, where appropriate, cooperation with non-governmental organizations, relevant organizations and other elements of civil society, in particular:
 - Suitable housing ;
 - Legal advice and information in a language understood by victims ;
 - Medical, psychological and material assistance ;

- Employment, education and training opportunities.
- Each State Party shall take into account, when applying the provisions of this article, the age, sex and special needs of victims, in particular those of children, including adequate housing, education and care.
- Each State Party must endeavor to provide physical safety to victims while they are within its territory.
- Each State Party must ensure that its national legal system contains measures that allow victims to obtain compensation for the damages they have suffered.

This text reflects the international community's commitment to placing the victim at the center of legal policies and procedures. Efforts to combat human trafficking are not limited to prosecuting and punishing perpetrators, but also include providing comprehensive protection and full support to victims, ensuring their dignity and right to psychological and social recovery, and enabling them to participate safely and effectively in the judicial system without suffering additional harm.

3-International obligations of States Parties

The Palermo Protocol enshrines comprehensive obligations on States Parties, including legislative obligations, procedural measures to protect victims, and preventive and awareness-raising mechanisms, to ensure an integrated approach to combating trafficking in persons at the national and international levels.

3-1- Legislative obligations

Article 5 of the Palermo Protocol emphasizes that the criminalization of human trafficking represents a binding legal obligation on each State Party, so that national legislation must cover all acts provided for in Article 3, provided that such acts are intentional and deliberate by the perpetrator(United Nations, 2000, p. 3):

- Each State Party shall adopt the necessary legislative and other measures to make the acts provided for in Article 3 of this Protocol crimes when committed intentionally.
- Each State Party shall adopt the necessary legislative and other measures to make the following crimes punishable :
 - Taking into account the basic principles of its legal system, attempt to commit any crime stipulated in paragraph 1 of this article ;

- o Participation as an accomplice in any crime stipulated in Paragraph 1 of this Article ;
- o Organizing or directing other persons to commit any crime stipulated in Paragraph 1 of this Article.

It is clear from the first paragraph that a State Party is obliged to define the acts that constitute the crime of human trafficking in accordance with Article 3 and to make them subject to criminal punishment when committed intentionally. This means that all practices involving exploitation, transport, smuggling, sexual exploitation or forced labor must be considered a crime in national legislation, ensuring comprehensive protection for victims and effective prosecution of perpetrators.

The second paragraph of Article 5 expands the scope of the legislative obligation to include forms supporting the crime. The Protocol requires States Parties to hold accountable: those who attempt to commit the crime, even if the act is not completed, to ensure that legal loopholes are not exploited; those who participate as accomplices in the crime, whether through facilitation, support, or cover-up, which reinforces the principle of shared responsibility; and those who organize or direct others to commit the crime, ensuring the prosecution of criminal leaders or networks that exploit influence to traffic in human beings.

These legislative measures arguably make national law an effective tool in combating human trafficking, as they address all direct and indirect acts associated with the crime. It also ensures the protection of victims by providing a clear legal framework to punish all forms of participation in crime, in line with international standards and strengthening commitment to the international responsibilities of States parties.

3-2- Procedural and executive obligations

States must provide judicial and procedural mechanisms to protect victims, while activating international cooperation in investigation and prosecution. The Palermo Protocol sets out the procedural obligations of States Parties to protect victims and enable them to obtain legal and social support. These commitments focus on transforming legal obligations into practical actions at the national level. It includes the following elements :

3-2-1- Privacy and identity protection

Article 6 stipulates that the privacy and identity of victims of trafficking in persons must be protected where appropriate, and within the limits permitted by the national law of each State Party, including making legal procedures related to investigation and trial confidential when necessary, and allowing the victim not to appear in person in appropriate cases. The importance of these measures lies in avoiding re-exposing the victim to danger or psychological pressure during the course of the investigation and trial, and they also contribute to creating a safe environment for victims that allows them to cooperate with the authorities without fear or threat, which enhances the effectiveness of collecting evidence and prosecuting perpetrators(United Nations, 2000, pp. 3-4).

3-2-2- Enabling victims to participate in legal proceedings

Article 6 stipulates that the national legal and administrative system must include measures that enable victims to access information about relevant judicial and administrative procedures, and to present their opinions and concerns in a manner that respects the rights of defence. This dimension is essential to achieving justice that takes into account the interests of victims and supports their role as key actors in the criminal process, while ensuring that the legal rights of the accused are not affected, thus balancing the principle of justice with the protection of victims(United Nations, 2000, pp. 3-4).Moreover, it encourages national policies and practices integrating victim participation, enhancing transparency and accountability.

3-2-3- Supporting the social, psychological and economic recovery of victims

Article 6 also includes that measures must be put in place to provide physical, psychological and social protection to victims, in cooperation where appropriate with non-governmental organizations and relevant civil society actors. This includes providing appropriate shelter, legal and psychological guidance, medical and material assistance, as well as education, training and employment opportunities, taking into account the special needs of children, women and vulnerable groups. This dimension contributes to enhancing the independence of victims and enabling them to regain their normal lives, which enhances the effectiveness of the strategy to prevent trafficking in persons and limits their re-exposure to exploitation(United Nations, 2000, pp. 3-4).

3-2-4- Repatriation of victims

In accordance with article 8, the national State party must facilitate the return of victims to their countries of origin or country of permanent residence in a safe manner and without undue delay, taking into account their safety and any ongoing legal proceedings, preferably voluntary. This process forms an essential part of the comprehensive protection strategy for victims, as it contributes to their reintegration into the indigenous community or into a safe environment, and avoids their exposure to additional exploitation or new violations of their rights(United Nations, 2000, pp. 4-5).

Through these procedural obligations, the Protocol seeks to transform theoretical protection for victims into practical policies and procedures applicable on the ground. It also aims to achieve a balance between deterrent punishment for those involved and protecting the rights of victims, while restoring their human dignity and enhancing their social, psychological and economic integration, making victim protection an essential element in combating transnational organized crime.

3-3- Preventive and awareness commitments

The Palermo Protocol emphasizes that combating trafficking in persons cannot be limited to punishment after the crime has occurred, but must include comprehensive preventive and awareness-raising measures aimed at reducing the occurrence of crimes and protecting the groups most vulnerable to exploitation. He highlighted the need for a comprehensive international approach that includes countries of origin, transit of destination and final destination, with a focus on protecting victims and ensuring their human rights before crime occurs(United Nations, 2000, p. 1).

Article 9 of the Protocol stipulates the need to develop policies, programs and preventive measures that focus on protecting victims, especially women and children, from re-exploitation or abuse again. This article also emphasizes the importance of the social and educational dimension, through public awareness campaigns, information gathering, and the implementation of economic and social initiatives that reduce the fragility factors that make some individuals more vulnerable to trafficking(United Nations, 2000, p. 5).

The most important components of the preventive and awareness-raising commitments in the Protocol are as follows :

3-3-1- Awareness and education programs

States Parties shall develop educational and information programs aimed at raising awareness about the dangers of trafficking in persons and methods of exploitation, with a focus on the most vulnerable groups. These programs aim at early prevention and enable individuals to learn about protection methods and rely on available resources. Also, Cooperation with civil society and non-governmental organizations :

The Protocol emphasizes strengthening cooperation with non-governmental organizations and international institutions to develop innovative preventive initiatives, including awareness campaigns, social support, and providing legal advice to potential victims.

3-3-2-Training and qualification for the competent authorities

States Parties are required to provide comprehensive training and professional qualification programs for all competent authorities, including the police, judiciary, and social services, to enable them to effectively identify cases of human trafficking. These programs should focus not only on recognizing the legal indicators of trafficking but also on equipping personnel with the skills to interact with victims in a sensitive and respectful manner, safeguarding their rights and minimizing both psychological and social harm.

Such training is essential to ensure the practical application of preventive and awareness-raising measures. It strengthens the State's institutional capacity to address human trafficking in a systematic, coordinated, and comprehensive manner, ensuring that interventions are timely, effective, and sensitive to the needs of vulnerable populations.

Through these measures, the Palermo Protocol under scores that preventive action and awareness-raising are not peripheral but central components of the anti-trafficking strategy. They are directly linked to the protection of victims, the reduction of vulnerability factors, and the promotion of social reintegration, thus enhancing the overall effectiveness of legal and humanitarian efforts at both national and international levels.

The humanitarian dimension of combating trafficking translates legal obligations into practice, focusing on victims' dignity, safety, and social needs, while providing protection, support, and empowerment.

4- The Human Dimension and Victim Protection in Practice

The human dimension in combating human trafficking constitutes the fundamental pillar that translates legal obligations into practical measures concerned with the dignity and rights of victims.

4-1-Conceptual transformation in international law

The International Protocol against Trafficking in Persons' approach has emerged in highlighting the victim as a central focus of criminal justice, rather than the traditional focus on criminalizing the act and punishing only the perpetrator. Modern international law pays special attention to the humanitarian aspect of victims, by providing comprehensive protection that includes legal assistance, health and psychological care, and protection from forced return, while ensuring respect for privacy and human dignity during investigation and trial. The Protocol states in its preamble that the effectiveness of combating trafficking in persons depends on a comprehensive approach that includes prevention, punishment and protection of victims: States Parties to this Protocol, declaring that effective action to prevent trafficking in persons, especially women and children, requires a comprehensive international approach... including measures to prevent such trafficking, punish its perpetrators and protect its victims, including the protection of their internationally recognized human rights(United Nations, 2000, p. 1).

This conceptual shift is an important step towards integrating the human dimension into international criminal justice mechanisms, placing the victim at the center of attention and strengthening her role as a key actor in the legal process, rather than simply a party affected by events.

4-2-Obligations of States Parties in the practical application of victim protection

The Protocol emphasizes that protecting victims of human trafficking requires States Parties to adhere to a set of practical measures at the national level, ensuring effective protection and transforming theoretical principles into concrete actions on the ground. These obligations include the following:

4-2-1- National legislative framework

The Protocol to Prevent, Suppress and Punish Trafficking in Persons requires each State Party to adopt, within its national legal system, the

necessary legislative and other measures to criminalize the acts provided for in Article 3, whenever they are committed intentionally, in accordance with Article 5 of the Protocol(United Nations, 2000, p. 3).

This means that States parties must enact or amend their domestic laws to criminalize all forms of trafficking in persons, including sexual exploitation, forced labour, slavery, child exploitation, and organ removal. Article 5 also obliges each State Party to criminalize attempting to commit a crime, participating in it as an accomplice, and organizing or directing other persons to commit it, in order to ensure that the legal framework includes all stages of the criminal act and the roles of those involved in it(United Nations, 2000, p. 3).

Thus, the Protocol affirms that broad and comprehensive criminalization is the cornerstone of any effective national policy to combat human trafficking, and that harmonizing national legislation with international obligations represents a pivotal step toward achieving deterrence and full legal accountability.

4-2-2- Social, psychological and medical services and support

Article 6 of the Palermo Protocol Binding States Parties to take comprehensive measures aimed at providing assistance and protection to victims of trafficking in persons, ensuring the preservation of their human dignity and restoring their ability to integrate into society. These measures include, in accordance with the same article, the following aspects(United Nations, 2000, pp. 3-4):

- Protecting privacy and identity :

States are obligated, in appropriate cases and within the limits of their national legislation, to protect the privacy and identity of victims by making judicial procedures related to trafficking crimes confidential, in a way that prevents victims from being exposed to any threat or social stigma.

- Enabling victims to participate legally :

States Parties are required to ensure in their legal and administrative systems measures that provide victims with access to relevant judicial and administrative procedures and enable them to present their views and concerns during the trial stages in a manner that does not prejudice the rights of the defense.

- Comprehensive support for physical, psychological and social recovery:

Calls for the implementation of practical measures aimed at the physical, psychological and social rehabilitation of victims, in cooperation, where appropriate, with non-governmental organizations and civil society bodies. These measures specifically include : providing shelter and safe accommodation ; providing psychological counseling and legal information in a language that victims understand ; ensuring medical, psychological, and material assistance ; and providing educational, training, and employment opportunities, ensuring victims' reintegration into society and economic empowerment.

- Taking into account vulnerable groups :

States must take into account the age, gender and special needs of victims, especially children, by providing appropriate accommodation, education and care, as human trafficking for the purpose of sex is one of the largest rates of total human trafficking, and a person is considered a victim of this trafficking if he is under the age of eighteen(Muhammad Shaer, 2012, p. 9).

- Ensuring physical safety and compensation :

Emphasizes the need to ensure the physical safety of victims during their stay within the territory of the State party, in addition to enabling them to obtain fair compensation for the damages they suffered as a result of the crime.

In doing so, the Protocol establishes an integrated international framework that makes victim protection a central focus of criminal justice. The response is not limited to criminalizing perpetrators, but extends to empowering, caring for, and rehabilitating victims, in accordance with international standards of human rights and individual dignity.

4-3- Challenges in protecting victims and implementing the Protocol

Despite the clarity of the obligations stipulated in the Palermo Protocol, States Parties face multiple difficulties in translating these obligations into actual practices on the ground. These challenges are due to the intersection of legal, institutional, social, and economic factors that make victim protection a complex process that requires integrated international and national coordination. The most prominent of these challenges can be summarized as follows :

4-3-1- Lack of financial and human resources

Many countries, especially developing ones, suffer from limited material capabilities and qualified personnel to provide comprehensive services to victims, whether in the areas of shelter, psychological support, or legal assistance. This deficiency leads to a weakness in the implementation of the preventive and therapeutic measures stipulated in the Protocol.

4-3-2- Disparities in the level of implementation

Degrees of commitment to implementing the provisions of the Protocol vary from one country to another, and while some countries have adopted advanced national legislation consistent with its requirements, other countries are still lagging behind in adapting their laws or establishing effective implementation mechanisms. This disparity leads to gaps in cross-border legal protection.

4-3-3- Weak international coordination and cooperation

Combating trafficking in persons requires close cooperation between States, whether in exchanging information, returning victims or prosecuting perpetrators across borders. However, the lack of adequate coordination between international security and judicial agencies weakens the effectiveness of preventive measures and contributes to impunity for perpetrators.

4-3-4- Social and cultural challenges

The negative societal view of victims represents a major obstacle to their reintegration into public life. They are often socially stigmatized, especially women and children, which limits their opportunities to integrate or receive the psychosocial support needed to recover.

Based on these difficulties, Article 9 of the Protocol emphasized the importance of preventive programs and international cooperation, obligating States Parties to develop comprehensive policies, preventive programs, and practical measures aimed at preventing trafficking in persons and combating its root causes, such as poverty and inequality. He also called for strengthening cooperation with non-governmental organizations and civil society, and adopting media and research initiatives to spread community awareness of the seriousness of the phenomenon and its humanitarian and social effects (United Nations, 2000, p. 5).

- Conclusion

This study confirms that the Palermo Protocol is a pivotal milestone in the development of the international legal framework to combat human trafficking, as it combines the security dimension represented in prosecuting perpetrators, and the humanitarian dimension aimed at protecting victims and preserving their dignity. The Protocol highlights the conceptual shift in international law from an exclusive focus on punishment to giving the victim a central position as a key actor in the international criminal justice system, by guaranteeing her right to assistance, protection and reintegration.

Despite the clarity of international legal texts, the effectiveness of the Protocol remains dependent on the extent of States Parties' commitment to implementing it at the national level, by harmonizing their domestic legislation with its provisions. The results also revealed that weak coordination between national institutions and a lack of human and material resources constitute among the most prominent challenges hindering the effective implementation of victim protection. This highlights the need for an integrated vision that integrates legal, social and psychological dimensions to ensure effective and comprehensive protection.

Based on the results of the study, a number of practical measures can be proposed to implement the international obligations stipulated in the Palermo Protocol, namely:

Strengthening national legislation and harmonizing it with the Protocol : States parties should update their laws to criminalize all forms of human trafficking, and ensure that penalties and measures are consistent with international standards, establishing an effective legal framework to protect victims.

Activating international and regional cooperation : through exchanging information, providing mutual legal assistance, and enhancing coordination between security and judicial agencies to ensure the prosecution of perpetrators and the protection of victims across borders.

Developing comprehensive prevention and care programs : by establishing specialized shelters, providing psychological and social support, and facilitating the professional and economic reintegration of victims, ensuring a dignified and stable life for them.

Stimulating community awareness : through educational and media campaigns that contribute to removing social stigma from victims, spreading a culture of human rights and preventing human trafficking.

Ensuring continued political and legislative will: By adopting sustainable national policies that translate the principles of the Protocol into concrete practical measures that promote social justice and protect human dignity.

Thus, it can be said that the success of the Palermo Protocol in achieving its objectives depends on the extent of integration of legal, institutional and humanitarian efforts, and on the ability of States Parties to transform their international obligations into a tangible reality that enshrines justice and human dignity for all victims of human trafficking. This success also requires activating international cooperation and exchanging experiences and information between countries and relevant organizations, to ensure a comprehensive approach that combines prevention and protection.

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