

3P Anti-trafficking Policy Index

Coding Guideline

(As of 1. December 2014)

Reference: Cho, Seo-Young, Dreher, Axel and Neumayer, Eric (2014) The Determinants of Anti-trafficking Policies ó Evidence from a New Index. *The Scandinavian Journal of Economics* 116(2): 429-454.

Definition

We accept the official definition of trafficking in human beings. According to the Anti-trafficking Protocol (2002) adopted by the United Nations, trafficking in persons means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a 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 includes, at a minimum, the prostitution of others or other forms of sexual exploitation, forced labor or service, slavery or practices similar to slavery, servitude or the removal of organs (article 3-(a)).

Purpose

This coding aims to measure the effectiveness of actions taken by governments, such as legislative adoption, enforcement, implementation, and cooperation in order to: 1) prevent and combat trafficking in persons, paying particular attention to women and children; 2) protect and assist the victims of such trafficking, with full respect for their internationally recognized human rights; 3) punish and prosecute traffickers and offenders of such crimes. In meeting these three objectives, cooperation among states, and between states and civil society, is also considered to be important.

Informational Sources

The Annual Reports of Trafficking in Persons (United States State Department, 2001-2011) are the main informational source for the coding. Country narratives of these reports provide relevant information about governments' actions and performance in each of the areas of prevention, protection and prosecution. Additionally, the Reports on Trafficking in Persons:

Global Patterns (United Nations Office on Drugs and Crime, 2006 and 2009) are used as a supplementary informational source.

1. Prosecution

Coding Scheme

In measuring government prosecution policy, our primary interests are: 1) whether the country has legislative and other measures to establish criminal offences for trafficking in persons, in line with the definition provided by the Anti-trafficking Protocol; and 2) whether such legislative and other measures are appropriately and effectively enforced.

Score 5:

The country has a legislative measure specifically prohibiting trafficking in persons and; the law is fully enforced in the form of investigations, prosecutions, convictions and punishment of such offenders. Generally, the country should maintain a stringent level of penalty (either more than five years imprisonment or punishment equivalent to other related crimes such as rape or labor exploitation).

Score 4:

The country has a legislative measure specifically prohibiting trafficking in persons; BUT the law is not fully enforced in the form of investigations, prosecutions, convictions and punishment of such offenders.

Score 3:

The country does NOT have a legislative measure specifically prohibiting trafficking in persons; but applies some other relevant laws (such as laws against rape, slavery, exploitation, abuse or human rights violation) to punish offenders of such crimes; and the law is fully or adequately enforced in the form of investigations, prosecutions, convictions and punishment of such offenders.

Score 2:

The country does NOT have a legislative measure specifically prohibiting trafficking in persons; BUT applies some other related law to punish offenders of such crimes; the law is not adequately enforced in the form of investigations, prosecutions, convictions and punishment of such offenders. If the country has a legislative measure specifically prohibiting trafficking in persons but does not enforce the law at all (or there is no evidence that the country has conducted prosecution or conviction of such offenders), it also receives score 2.

Score 1:

The country does NOT have a legislative measure prohibiting trafficking in persons and no other law is applied; and there is no evidence of punishment for such a crime at all.

(-999) Not mentioned

Guideline for Prosecution

ÉDecomposition of Prosecution Policy

- a. Adoption of anti-trafficking law prohibiting trafficking in human beings (either prohibiting all forms of human trafficking or in the form of sexual exploitation¹).²
- b. Adoption of anti-child trafficking law.
- c. Application of other relevant law such as law against rape, exploitation, slavery, abuse or human rights violation.
- d. Level of penalty, higher than five years imprisonment or equivalent to penalty for other relevant crimes such as rape or labor exploitation.
- e. Law enforcement: whether the law is fully or adequately enforced with evidence of investigations, prosecutions, convictions and punishment of such offenders.³
- f. Collection of crime statistics.
- g. Effort assessment: sufficient/adequate efforts for the law enforcement; modest; limited; inadequate; or no efforts

ÉDecision Rule

- To qualify for score 5 and 4, (a) and (b) are taken into account. In particular, (a) must be fulfilled. Countries fulfilling only (b) can qualify for score 3 or 2, but not 5 or 4.
- If neither (a) or (b) is fulfilled, then check if (c) is fulfilled. If so, the country qualifies for score 3 or 2.
- Whether (e) is fulfilled determines whether countries receive score 5 or 4, if the country has an anti-trafficking legislative measure; or score 3 or 2, if the country does not have an anti-

¹ Sexual exploitation is known to be the most serious and prevailing form of human trafficking (UNODC 2006).

² Sometimes, the reports provide contradicting information on whether an anti-trafficking law exists in the country over time. In this case, we take more specific information which includes a specific penal code, the name of the law or the year of adoption.

³ In assessing law enforcement efforts, we do not rely completely on numbers of prosecutions/convictions because those numbers are not always accurate and often unavailable over time and across countries. Thus, we also take qualitative assessments provided in the Report into account.

trafficking legislative measure. To determine whether (e) is fulfilled, strong evidence of conviction and prosecution is crucial.⁴

- If the country fulfills (a) and (e), but does not fulfill (d) (which is rare), the principal investigators will determine whether the country qualifies for score 5 or 4 based on general assessments of country narratives.
- In exceptional cases, if a country has an anti-trafficking legislative measure but does not conduct any investigation/prosecution/conviction, it receives score 2. To fall into this category, the country does not enforce law at all, or the qualitative assessment in (f) indicates inadequate/no effort.
- (f) is used for additional information, indicating evidence of law enforcement.
- (Coding with limited information) If specific information on law enforcement is not available, the principal investigators will use (g) to determine a score, together with information about law adoption, which is provided in almost all cases. Countries making sufficient/adequate efforts for enforcement will qualify for score 5 if anti-trafficking legislation has been entered into force. Modest efforts will qualify for score 4 if anti-trafficking legislation has been entered into force. If the country does not have an anti-trafficking legislative measure, it receives score 3 in the cases of either sufficient or modest efforts in enforcement. With inadequate efforts, the country receives either score 2 or 1, depending on the application of other laws.

Grounding in International Law

United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (particularly article 5).

Country Examples

Argentina (2009, score 4)

Argentina prohibits all forms of trafficking pursuant to Law 26,364, enacted in April 2008, which prescribes penalties of three to 15 years imprisonment. Such penalties are sufficiently

⁴ Assessment on law enforcement differs depending on whether a country has adopted a comprehensive anti-trafficking law (or law prohibiting human trafficking in the form of sexual exploitation). If a country has such a law, we assess law enforcement in a stricter manner: having 10 or higher convictions (described as full enforcement) qualifies a country for score 1. If a country does not have such a law, we assess modest enforcement efforts or some evidence on prosecution/conviction as also being inadequate and therefore give score 3.

stringent and exceed those prescribed for other serious crimes, such as rape... During the reporting period, the government obtained three convictions of sex trafficking offenders, with one sentence for four years, another for 10 years, and one trafficking offender under house arrest after receiving a four-year sentence. (Source: Trafficking in Persons Report 2010, pp.63-64)

Evaluation: Argentina has an anti-trafficking law and the level of punishment is sufficiently stringent. However, the level of conviction is low (three convictions), indicating the law is not fully implemented. Thus, it receives score 4 for prosecution policy in 2009.

Argentina (2010, score 5)

Argentina prohibits all forms of trafficking pursuant to Law 26,364, enacted in April 2008, which prescribes penalties of three to 15 years of imprisonment, depending on aggravating factors. Such penalties are sufficiently stringent and are equal to or exceed those prescribed for other serious crimes, such as rape. In 2010, authorities carried out 107 preliminary investigations, and as of late 2010, there were 78 ongoing trafficking prosecutions nationwide. During the reporting period, the government obtained 15 convictions of sex trafficking offenders, with sentences ranging from two to 15 years of imprisonment. This represents a significant increase in convictions from the previous year. (Source: Trafficking in Persons Report 2011, p.70)

Evaluation: Argentina has an anti-trafficking law and the level of punishment is sufficiently stringent. The law is adequately implemented with a number of investigations and prosecutions resulting in a high number of convictions. Thus, the country receives score 5.

2. Protection

Coding Scheme

In measuring government protection policy, our primary interests are: whether the country protects the human rights of victims of trafficking; identifies them; and provides for the physical, psychological and social recovery of victims of trafficking by legislative and other measures.

Score 5:

The country does not punish victims of trafficking for acts related to the situations being trafficked; does not impose the self-identification of victims; and exerts STRONG efforts to

give victims information on, and assistance for, relevant court and administrative proceedings, as well as support for the physical, psychological and social recovery of victims such as housing (shelter), medical assistance, job training, (temporal) residence permit, and other assistance for rehabilitation and repatriation.

Score 4:

The country does not punish victims of trafficking for acts related to the situations being trafficked; does not impose the self-identification of victims; and exerts MODERATE efforts to give victims information on, and assistance for, relevant court and administrative proceedings, as well as support for the physical, psychological and social recovery of victims such as housing (shelter), medical assistance, job training, (temporal) residence permit, and other assistance for rehabilitation and repatriation.

Score 3:

The country does not punish victims of trafficking for acts related to the situations being trafficked; does not impose the self-identification of victims; and exerts LIMITED efforts to give victims information on, and assistance for, relevant court and administrative proceedings, as well as support for the physical, psychological and social recovery of victims such as housing (shelter), medical assistance, job training, (temporal) residence permit, and other assistance for rehabilitation and repatriation. Or, if the country fails to ensure that victims of trafficking are never punished for acts related to the trafficking itself or the consequences of being trafficking BUT exerts STRONG/MODERATE efforts in protecting victims, the country qualifies for score 3.

Score 2:

The country fails to ensure that victims of trafficking are punished for acts related to the trafficking itself or to the consequences of being trafficked; and there is limited assistance and support for court proceedings and the recovery of victims. Or, the country does not punish victims of trafficking in persons for acts related to the situations being trafficked; however, it also does not provide any assistance or support for recovery, rehabilitation and repatriation.

Score 1:

The country punishes victims of trafficking in persons for acts related to the situations being trafficked; and does not provide any assistance and support.

(-999) Not mentioned

Guideline for Protection

ÉDecomposition of Protection Policy

- a. No (evidence of) punishment of victims for acts related to the situations being trafficked.
- b. No self-identification.
- c. Provision of information on, and support for, court and administrative proceedings.⁵
- d. Provision of appropriate housing (shelter).
- e. Provision of medical assistance.
- f. Provision of job training.
- g. Provision of (temporal) residence permit.
- h. Provision of other rehabilitative support, if any.
- i. Assistance for repatriation.
- j. Effort assessment: sufficient/adequate efforts to protect victims; moderate; limited; or none.

ÉDecision Rule

- To qualify for score 5 or 4, (a) must be fulfilled. (a) takes priority in the decision rule. In other words, if the country fulfills other requirements but not (a), it is penalized and does not receive score 5 or 4.
- (b) is used as additional information. No information on (b) does not mean that the country is disqualified from receiving score 5 or 4.
- Information on (b), (c), (d), (e), (f), (g), (h) and (i) are used to determine the level of assistance and support for victims. If six to seven requirements are fulfilled, it is considered -strongø If four to five are fulfilled, it is considered -moderateø If one to three are fulfilled, it is considered -limitedø
- (Coding with limited information) If specific information on assistance and support for victims is missing, the principal investigators will use (j) to determine the score, together with information about whether the country punishes victims or not. Strong/sufficient/adequate efforts will receive score 5 or 4, depending on how comprehensive coverage of prevention efforts is; modest efforts score 3; limited efforts score 2; and no efforts 1.

⁵ Given that we measure anti-trafficking policy efforts, we count only governmental efforts for (c) to (j). In other words, assistance provided by NGOs or international organizations without cooperation from a national government is not taken into account. If a government has a formal system referring victims to NGO services, we take it as cooperation; however, informal, sporadic referral is not counted as governmental cooperation with NGOs.

Grounding in International Law

United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (particularly part II, articles 6, 7 and 8).

Country Examples

Ireland (2008, score 2)

öIreland provided limited protection and assistance to trafficking victims during 2008. The government disbursed funds for one NGO that works with sex trafficking victims, and to which the government referred suspected trafficking victims. Suspected victims of trafficking may also receive housing and services under the state program for asylum seekersí There was evidence during the year that potential trafficking victims were penalized for unlawful acts committed as a direct result of their being trafficked. One suspected victim spent several months in jail for failing to provide proof of identification, though she claimed she had been forced into prostitution in Ireland.ö (Source: Trafficking in Persons Report 2009, p. 165)

Evaluation: It evidently punishes (potential) victims for unlawful acts committed as a direct result of being trafficked, violating the "no punishment principle" for victims. Additionally, it provides limited assistance programs for victims. Thus, Ireland is not eligible to score 3-5 and therefore receives score 2.

Ireland (2009, score 4)

öThe government formalized procedures to guide officials in the identification and referral of victims to service providers in June 2009. The government's Legal Aid Board provided legal services to suspected victims of trafficking. Victims of sex and labor trafficking had access to state services including medical care, accommodation, and counseling, though the NGOs focusing on labor trafficking were largely funded by private sourcesí The government provided temporary legal alternatives to the removal of foreign victims as part of a 60-day reflection period ó time for victims to receive immediate care and assistance while they consider whether to assist law enforcement: There was no evidence during the year that potential trafficking victims were penalized for unlawful acts committed as a direct result of their being trafficked.ö (Source: Trafficking in Persons Report 2010, p.184)

Evaluation: In 2009, there is no evidence on the violation of amnesty for victims of human trafficking. Moreover, Ireland provides a number of assistance for victims including legal

support, medical care, residence permit and accommodation. However, several rehabilitative efforts including vocational training and support for repatriation are not executed. Therefore, it receives score 4.

3. Prevention

Coding Scheme

In measuring government prevention policy, our primary interests are whether the country establishes and practices comprehensive policies, programs and other measures to prevent and combat trafficking in persons.⁶

Score 5:

The country demonstrates **VERY STRONG** efforts preventing trafficking in persons, such as implementing public and media campaigns for anti-trafficking awareness; training government and military officials (including peace keepers); facilitating information exchange among relevant authorities; monitoring borders, train stations, airports, etc.; adopting national action plans for combating trafficking in persons; promoting cooperation with NGOs and international organizations in the country; and facilitating bilateral and/or multilateral cooperation with other governments.

Score 4:

The country demonstrates **STRONG** efforts against trafficking in persons, such as implementing public and media campaigns for anti-trafficking awareness; training government and military officials (including peace keepers); facilitating information exchange among relevant authorities; monitoring borders, train stations, airports, etc.; adopting national action plans for combating trafficking in persons; promoting cooperation with NGOs and international organizations in the country; and facilitating bilateral and/or multilateral cooperation with other governments.

Score 3:

The country demonstrates **MODEST** efforts against trafficking in persons, such as implementing public and media campaigns for anti-trafficking awareness; training government and military officials (including peace keepers); facilitating information

⁶ In evaluating the preventive efforts of governments, we do not include broader developmental measures, such as promotion of education and poverty reduction, in order to distinguish governmental efforts specifically addressed at fighting human trafficking.

exchange among relevant authorities; monitoring borders, train stations, airports, etc.; adopting national action plans for combating trafficking in persons; promoting cooperation with NGOs and international organizations in the country; and facilitating bilateral and/or multilateral cooperation with other governments.

Score 2:

The country demonstrates LIMITED efforts against trafficking in persons, such as implementing public and media campaigns for anti-trafficking awareness; training government and military officials (including peace keepers); facilitating information exchange among relevant authorities; monitoring borders, train stations, airports, etc.; adopting national action plans for combating trafficking in persons; promoting cooperation with NGOs and international organizations in the country; and facilitating bilateral and/or multilateral cooperation with other governments.

Score 1:

The country demonstrates NO efforts against trafficking in persons.

(-999) Not mentioned

Guideline for Prevention

ÉDecomposition of Prevention Policy

- a. Implementation of public and media campaigns for anti-trafficking awareness.
- b. Training government and military officials (including peace keepers).
- c. Information exchange among relevant authorities.
- d. Monitoring borders, train stations, airports, etc.
- e. Adoption of national action plans for combating trafficking in persons.
- f. Cooperation with NGOs and international organizations in the country.
- g. Bilateral and/or multilateral cooperation with other governments.
- h. Effort assessment: strong (fully sustained); strong (not fully sustained); modest; limited; or none.

ÉDecision Rule

- If the country fulfills six or seven of the requirements of (a), (b), (c), (d), (e), (f) and (g), with full implementation, it is considered =very strongø
- If the country fulfills five or six requirements of (a), (b), (c), (d), (e), (f) and (g), with some limitations (i.e. not always sustained) in implementation, it is considered =strongø

- If the country fulfills three or four requirements of (a), (b), (c), (d), (e), (f) and (g), it is considered *“moderate”*
- If the country fulfills one or two requirements of (a), (b), (c), (d), (e), (f) and (g), it is considered *“limited”*
- (Coding with Limited Information) If specific information on preventive efforts is missing, the principal investigators will use (h) to determine a score. *“Strong”* efforts receive score 5 or 4, depending on whether efforts are fully sustained or not. *“Modest”* efforts receive score 3. *“Limited”* efforts receive score 2, no efforts 1.

Grounding in International Law

United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (particularly part III, articles 9, 10, 11, 12 and 13).

Country Examples

India (2007, score 2)

“India made inadequate efforts this year aimed at the prevention of trafficking in persons. Several times during the year, the Ministry of Labor and Employment displayed full-page advertisements against child labor in national newspapers. The government also instituted pre-departure information sessions for domestic workers migrating abroad on the risks of exploitation. Nonetheless, the government did not report new or significant prevention efforts addressing the prominent domestic problems of trafficking of adults for purposes of forced labor and commercial sexual exploitation.” Similarly, the government failed to take any steps to raise awareness of trafficking for nationals traveling to known child sex tourism destinations within the country. (Source: Trafficking in Persons Report 2008 p.141)

Evaluation: India exercises inadequate, limited efforts in terms of prevention in 2007. It implements some public and media awareness programs but widely neglects most of the preventive efforts at its disposal. Thus, it receives score 2.

India (2008, score 3)

“India continued to conduct information and education campaigns against trafficking in persons and child labor.” While the government made modest efforts to prevent trafficking for commercial sexual exploitation, it did not report new or significant efforts to prevent the

large problem of bonded labor. The Ministry of Women and Child Development remained the central government's coordinator of anti-trafficking policies and programs, though its ability to enhance interagency coordination and accelerate anti-trafficking efforts across the bureaucracy remained weak. According to a Government of India official, training for Indian soldiers deployed in peacekeeping missions includes awareness about trafficking. Following agreements reached prior to this reporting period with Middle Eastern labor destination countries, the Indian prime minister in November 2008 signed a major agreement with Oman to combat illegal recruitment and human trafficking during his visit there. (Source: Trafficking in Persons Report 2009, p. 158)

Evaluation: India demonstrates modest preventive efforts in 2008. It conducts anti-trafficking campaigns, some training for peacekeepers, and cooperation with other governments. However, it neglects joint efforts across bureaucracies and does not have evidence on intensive monitoring to prevent human trafficking. Also, it has not yet adopted a comprehensive national action plan against human trafficking (though it is being discussed). Thus, India receives score 3.