EXECUTIVE SUMMARY

Determinants *of* Anti-Trafficking Efforts

BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW

Determinants of Anti-Trafficking Efforts
Summary of Key Findings

Dr Jean-Pierre Gauci and Dr Noemi Magugliani

This project sought to set out the determinants of anti-trafficking efforts, understood as ***factors shaping governments' anti-trafficking efforts and influencing compliance with – and implementation of – international standards****. It sought to do so through a review of available literature, a quantitative analysis of existing data sets, a series of over 50 interviews with stakeholders at the international and regional level, a global survey with some 200 responses, and 14 case studies.*

This summary seeks to highlight some of the key findings of the 'Determinants of Anti-Trafficking' research project. A detailed analysis of the findings is included in our final report, which is published alongside additional documents, including 14 country reports undertaken by national research consultants. The research explores and evaluates a range of determinants of anti-trafficking efforts – how they are understood, manifest, and interact. Against this background, the 14 case studies and the global survey offer further insights into the functioning and interplay of determinants in specific contexts.

Before that specific analysis, it is however worth considering some of the overarching issues that have been identified, particularly about the way in which determinants are **inter-connected**, **inter-dependent**, and **non-linear**.

The impact of determinants cuts across a range of responses. They may influence whether trafficking is acknowledged as a problem, prioritised as a policy concern, and/or responded to. They influence whether trafficking efforts against specific forms of exploitation are prioritised over others. Determinants will also impact the frame through which trafficking is addressed, the allocation of resources, and the way in which efforts are implemented, monitored, and evaluated. Different determinants are likely to result in different modes of responses, from more formalistic responses (involving the mere adoption of laws and policies) to more practice-focused approaches (such as those involving the resourcing and training of anti-trafficking stakeholders, including specialised anti-trafficking bodies). One may well lead to the other – the adoption of a formal policy can result in significant practical

improvements, assuming that it is accompanied by adequate resources and that the political will for its implementation is sustained.

Determinants are categorised as either internal or external, and structural factors or pressure points. Determinants are categorised as **internal or external** factors according to whether they exist domestically or externally to the State in question. Examples of internal factors include pressure from local NGOs and political or economic situations, whilst external factors include international law, influence from monitoring bodies (e.g., GRETA, US Trafficking in Persons Report, etc), and transnational contextual influences (such as migration patterns). Like all categorisations of determinants, however, these distinctions are fluid – notably because of the ways internal and external measures interact. For instance, civil society (usually considered to be internal) will often use opportunities in the international sphere to exert pressure (such as through shadow reporting to human rights treaty bodies) and will in turn use reports by such international bodies to inform and support their own advocacy at the national level.

Determinants are also categorised as **structural or pressure points** according to whether the influence is a result of a structural factor or of active pressure advocating for change. Structural determinants include, for example, general international law and the domestic political or economic situation. These are factors that frame anti-trafficking efforts by providing the structure within which developments are considered, adopted, and implemented. Factors categorised as pressure points include the threat of sanctions, civil society campaigning, and the availability of data, which can be used as tools to create pressure. As is clear from this explanation, the same individual factor often fits within multiple typologies.

Determinants can be **positive, neutral, or negative**. A positive determinant pushes in the direction of better anti-trafficking policies, whilst a negative determinant hinders improvements. A positive determinant can be identified through positive impetus in presence or negative impetus in absence: for instance, political will is identified as both pushing for positive developments when present, and as being a hindrance when absent (or when it exists but focusses narrowly on limited anti-trafficking efforts). Issues like corruption for instance are negative determinants, as they tend to hinder developments (or negative developments) through their presence. Some determinants are active, actively influencing change and others are passive, impacting changes by providing the background for other factors.

Determinants may be trafficking **specific, contextual, or tangential**. Determinants that are linked specifically to anti-trafficking include monitoring bodies established pursuant to anti-trafficking instruments, the signing up to international and regional anti-trafficking legislation and treaties amongst others. Contextual determinants are probably the widest category, and they include all determinants that relate to the broader context of state action,

even if some manifestations are trafficking specific. For example, governments may be keen to maintain a positive reputation for their State with the international community – that is contextual, manifesting itself amongst other things in how the State behaves on anti-trafficking matters. For instance, the adherence by a State to broader human rights obligations which indirectly benefit anti-trafficking. In some situations, the determinant emerges from other policy fields with the benefit for anti-trafficking being indirect or tangential. This might include, for instance, the ratification of a children's rights instrument or the ability of individual complaints to be submitted before a human rights treaty body. The nature of trafficking, pervasive across a range of areas and influenced by developments across a broad range of policy spaces, makes it such that determinants of anti-trafficking efforts may, directly or indirectly, be found across many fields.

On a related note, determinants can be thought about as being **direct or indirect**. Direct determinants will have a direct impact on anti-trafficking efforts. A decision by a court requiring the government to revisit the legislation, or indeed advocacy for better protections for trafficked persons, is a direct determinant as it has a direct influence on anti-trafficking efforts. The political will to maintain a good reputation in the international community may still influence anti-trafficking efforts, albeit indirectly. Indirect determinants will sometimes act on their own speed whilst in others they will strengthen, support, or dilute direct determinants.

Determinants are then **context specific**. They change according to the social, cultural, political, and legislative context of the specific country. They change over time and may change depending on the form of trafficking or type of response being discussed. The broader context will also impact the anti-trafficking context. For example, a curtailment of civil society space in a country will impact the role of civil society in the anti-trafficking space.

Critically, determinants of anti-trafficking efforts **do not stand alone**. Put differently, there is no silver bullet, no single thread to pull if one is seeking to promote (positive) changes in a State's anti-trafficking efforts. Our research clearly highlights how intersectional, inter-connected, and inter-dependant determinants are. For instance, the acknowledgement of trafficking as a concern cuts across political will, data and research, civil society engagement, and events and crises amongst others. It is supported by external monitoring and case-law and framed by international law instruments. It intersects how involved actors see the role of the State, and the relationship with the international community. Acknowledgement then can lead to trafficking being prioritised, whilst migration, gender, and other policies and cultural perspectives will intersect with both the understanding and the prioritisation of trafficking as a policy concern.

Determinants are **personal, institutional, and cultural**. Political will can start from a personal conviction or interest, which coupled by political and other opportunities can ripple into significant influences on anti-trafficking efforts. Civil society, including smaller

organisations with a clear focus, can equally inform and influence anti-trafficking developments. Determinants at the institutional level include decisions coming from and received by institutions in the state – including institutions empowered by broader competences to implement those changes. Equally, specialised anti-trafficking institutions, themselves an outcome of other determinants, can help promote further measures and build capacity towards achieving significant anti-trafficking accomplishments.

Anti-trafficking developments are **non-linear**, and neither are the factors that influence them. It is not uncommon for steps forward to be reversed by other priorities. This is most obvious in situations where a change of administration or indeed a crisis results in changing priorities. However, various determinants are likely to push States in different directions, for instance with some determinants resulting in improvements in a specific type of response (e.g., external monitoring and the trafficking protocol focusing on law enforcement approaches), whilst others push for developments in other responses (for example civil society may push for more protection-focused responses to trafficking).

Some factors may at the same time be determinants of anti-trafficking efforts, **outcomes of other determinants**, and **determinants of other determinants**. For example, political will is clearly a determinant which is often an outcome of other factors – including, amongst others, acknowledgement, civil society pressure and international reputation. It is equally, however, a determinant of other determinants, including, for example, the ratification of international law instruments, and of anti-trafficking efforts directly, for example through the adoption of anti-trafficking law and policy which directly results in action at the national level. Moreover, the relative importance of specific factors (alone or relative to others) is itself a reflection of other determinants.

There are also multiple ways of reading the same determinants. For example, the findings about engagement with external monitoring, the relevance of international instruments, and the findings about funding opportunities being critical to positive change can be read as highlighting the role of 'international cooperation' as a key determinant of anti-trafficking efforts. Different configurations of the analysed determinants will emerge depending on the particular angle taken reflecting the multi-dimensional nature of these factors.

This summary – like the report – is organised along a series of broad determinants analysed based on the findings from the various components of the project. The above discussion should be read across those specific sections and whilst each determinant may attract interest alone, they must be understood within the broader context. Whilst many of the determinants may appear to be self-evident, this is the first research project (to our knowledge) that has moved away from analysis of specific determinants in specific contexts and has taken a broader perspective that cuts across a whole range of determinants and how they fit together. What is clear, is that efforts to enhance anti-trafficking efforts must

engage a whole series of levers in concert – a 'smart mix'. We trust that this research will provide anti-trafficking stakeholders with a strong evidence base to inform their work.

1 Political Will

Political will is understood as the **sustained commitment** of key state decision-maker(s) to combat human trafficking and to materially improve their anti-trafficking measures in particular through the development, implementation, resourcing, enforcement, and monitoring of legislative, policy and practical processes. Political will has emerged as a **key determinant** of anti-trafficking efforts. The presence of political will to address human trafficking has been identified generally as a positive determinant (e.g., in Armenia, Chile, Guyana, and Thailand), while the absence of political will to combat trafficking has been identified as a negative determinant of anti-trafficking efforts (e.g., Algeria, Cyprus, and Georgia). As presence and absence of political will cannot be understood as fixed and dichotomous categories, our case studies have emphasised that the presence or absence of political will, and therefore its positive or negative impact on anti-trafficking efforts depends, *inter alia*, on the historical moment, the political climate, and the area and nature, or the phases, of anti-trafficking action (e.g., Argentina, Bahamas, Brazil, and Mozambique).

While most case studies have referred to collective political will (e.g., Argentina, Armenia, Guyana, and Thailand), in certain circumstances reports have highlighted the impact of **individual political will** as a key determinant (e.g., Bahrain, Chile, and the United Kingdom) – although this will depend, *inter alia*, on the position held by the individual and on the nature and structure of the political system. Key examples have been identified in Theresa May in the UK, Prime Minister Sheikh Salman bin Hamad Al-Khalifa in Bahrain and Congresswoman Saa in Chile.

Political will is not only a determinant, but also a **sum outcome of other determinants** – including, for example, international pressure, case-law,[1] pressure from Civil Society Organisations (CSOs), and external funding. The presence of political will has been highlighted as **significant at all stages – from the initial acknowledgment and prioritisation of the trafficking problem to the implementation and evaluation of efforts**. However, for it to have the requisite positive impact political will must be *sustained* and *substantive*. It must be directed towards real action (not merely to appear to meet expectations) and supplemented by implementation power and resources.

[1] Case-law includes not only decisions of courts and tribunals, but more broadly all elements and processes that form part of the judicial system (e.g., prosecutions, filing of cases).

2 Acknowledgment, Understanding and Framing

Governments' anti-trafficking efforts are heavily influenced by whether and the way(s) in which trafficking is acknowledged, understood, and framed. The lens through which human trafficking is understood are highly context-dependent and **embedded in a country's history, cultural and social norms**, thus making it difficult to generalise. Indeed, acknowledgment and framing are processes that involve a multitude of actors, including the government itself, CSOs, and the media, as well as tools, including international law, data and research, and external monitoring. Based on the literature review, expert interviews, and case studies, our research has focussed on the way in which the government and the media acknowledge, expose, and frame human trafficking – and on how these impacts on anti-trafficking efforts.

Acknowledgment is usually the first, and a necessary, step to initiate anti-trafficking efforts. Governments are often unwilling to acknowledge that trafficking exists within their territories for a range of reasons – including, but not limited to, fear of diminished international reputation, limited expertise and availability of data, and absence of resources (or unwillingness to allocate resources). These obstacles can be overcome through, for example, political will, coupled with international law (United Kingdom), or external pressure (Guyana and The Philippines). Political will to acknowledge the existence of trafficking can also be triggered through international or regional pressure (or competition) from neighbouring countries or economic partners (Thailand) or media reporting (Armenia). **Acknowledgment is, however, not binary**: certain governments might acknowledge *some* types of trafficking, or *certain* trafficking experiences, or certain victims, while denying others. It is in this space that framing becomes significant.

Governments can use framing to justify acknowledgment, or they can use acknowledgment to support a specific framing. Framing is operationalised through law and/or through policy, and is itself impacted by other determinants (e.g., CSOs, media, data and research, international law). The most common framing tensions that our research encountered are the conflation of trafficking and smuggling; the blurred definitions of trafficking for the purpose of forced labour, labour exploitation and violations of labour laws; the different approaches to trafficking for the purpose of sexual exploitation and its link to prostitution between abolitionism and legalisation; and the language chosen by governments when discussing the phenomenon of trafficking. Reflecting the inter-connected nature of determinants, the research pointed to the media – both traditional and new – as a significant actor in framing human trafficking, and thus influencing responses.

The **media** plays a key role in both exposing and framing trafficking. In terms of exposure, its role can be critical in yielding political will (Argentina, Chile, Cyprus, Mozambique, Thailand), in building awareness (The Bahamas, Brazil), and in supporting CSOs' advocacy efforts (United Kingdom). Yet, because exposure is never neutral, media's

reporting also – consciously or not – supports or challenges trafficking's framing(s). Media sensationalism in particular has been an issue in several of our case studies (Armenia, Bahamas, Cyprus, Mozambique, the Philippines, United Kingdom) and the subject of heavy criticism by, *inter alia*, the UN Special Rapporteur on Trafficking in Persons. Problematic media framing often involves a **highly gendered narrative**, which results in stereotyping and in patronising accounts, and a focus on specific forms of trafficking and exploitation, which results in other types of trafficking being side-lined and under-reported. Some similar concerns extend also to data and research.

2.1 Data and Research

Data and research play a role in influencing State policy responses: while new data can facilitate change, the lack of reliable data can obstruct the effectiveness of policy responses. While data is often presented as 'objective', and 'evidence-based' policy as the gold standard, the nature of the trafficking phenomenon presents **inherent difficulties in collecting and analysing data**, and data collection often suffers from **collection biases** and **definitional challenges**.[2] What data is collected, and the way in which data is collected may indeed reflect a particular framing of trafficking (see also 'Acknowledgment and Framing'), and is influenced by other determinants – including availability of resources and the role of media and civil society organisations.

When data is collected and analysed externally, governments have a degree of discretion in acknowledging, accepting, and responding to it. Indeed, **external data can be distrusted, delegitimised, or ignored by governments** – either on the basis of justified concerns such as partiality, or as a means of political strategy. Yet, when **data** is externally collected and shared, it **can become available also to a whole range of actors within and beyond the State**, that can, individually or jointly, use the available data to exert pressure on States to improve their anti-trafficking efforts, or more broadly to evaluate their anti-trafficking action.

Data and research are **insufficient to trigger change alone**. Rather, the impact of data and research is amplified by media coverage and a broader advocacy strategy, including public campaigning, partnerships and behind-the-scenes work, which prevents governments from just ignoring the analysis. Data and research are **essential tools used by NGO, inter-governmental organisations and others to pressure and influence government action**. They are persuasive because they evidence and sustain

---

[2] Scarpa, 'Contemporary Forms of Slavery' (n 304) 7; Del Frate (n 306); Guri Tyldum and Anette Brunovskis, 'Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking' in Frank Laczko and Elzbieta Gozdziak (eds), *Data and Research on Human Trafficking: A Global Survey*, vol 43 (1/2) (International Organization for Migration 2005) 18 <http://lastradainternational.org/lsidocs/282%20IOM%20survey%20trafficking%20%28Global%29.pdf>.

advocacy campaigns, which can be particularly decisive to raise awareness and persuade governments to acknowledge human trafficking as an issue of concern.

2.2 Culture, Victimhood, and Discrimination

Social and cultural contexts are significant in shaping the way in which trafficking is understood and framed, and in turn in the design and implementation of anti-trafficking efforts. Our research has found that the understanding of victimhood and the presence of discrimination impact substantially on how trafficking is framed, which measures get prioritised, what efforts are being implemented, and who is protected through those efforts. At the core of the concept of victimhood are **processes of stereotyping**, which act as barriers to the identification of *all* trafficked persons and to the adoption of an inter-sectional and inclusive approach to vulnerability. Cultural stereotypes can affect identification of persons trafficked for the purpose of sexual exploitation, who are judged and stigmatised as promiscuous (Chile, The Philippines), they can lead governments to exclude from the category of 'vulnerable' individuals those who display a degree of agency – yet without taking into account all *means* of the trafficking definition (The Bahamas), or they can form the basis of the presumption of a *lack* of agency, thus conflating sex work with trafficking and forced prostitution (Bahrain). These stereotypes can be driven and reinforced, rather than challenged, by case-law and judicial decision-making (Georgia). When stereotypes and assumptions are made about a particular category of individuals, usually on the basis of their biological sex, those who do not conform to discrete categories (Argentina) or are not seen as *prima facie* vulnerable (Brazil, The Philippines, United Kingdom) risk being excluded not only from the discourse, but also from identification and thus protection.

Social contexts are also found to **impact how different types of trafficking are framed** in comparison to others. In most of our case studies, research has shown a higher propensity of governments to engage in efforts against trafficking for the purpose of sexual exploitation – although this does not hold true for all governments and is subject to country-specific assessments. While engagement with specific types of trafficking only is usually explained by reference to data, one could challenge the very nature of data collection and the biases within (see 'Data and Research' as well as 'Acknowledgment and Framing'). What emerged quite clearly from a number of case studies (Argentina, Brazil, and The Philippines) is the tendency to see trafficking for the purpose of forced labour being *normalised* more easily than other types of exploitation.

Furthermore, **systemic discrimination and racism**, both as part and as detached from social and cultural contexts, are found to shape the functioning of particular identification and protection processes. Discrimination impacts significantly on (lack of) identification and protection (Chile, Cyprus, The Philippines, United Kingdom) as well as on prosecutions (Chile, Bahrain), with foreign nationals found to be more easily convicted and

to receive harsher penalties, but less likely to be identified as trafficked and protected as such.

2.3 Religion and Morality

Together with other socio-cultural factors, religion – and to a certain extent morality – contributes to shaping the way trafficking is understood, framed (see also 'Acknowledgment and Framing'), and countered by public authorities. Morality and religion play an important role in shaping **the concept of reputation**. Whether a State is compliant with moral and religious standards that are commonly accepted at the regional – or, sometimes, at the international – level, has an impact on the way its agency will be perceived and judged by other countries.

Religion can be also a positive catalyst to advocate for change and influence serious matters of concern, as it usually occurs within faith-based platforms. Notably, the literature is replete with references on the impact of faith-based organisations in tackling human trafficking, focusing in particular on the Christian involvement in anti-trafficking efforts in the US.[3] However, **its positive impact as a determinant seems to be partial and, in some cases, even questionable**. If religion has any impact on anti-trafficking efforts, it has tended to primarily enhance efforts to counter human trafficking for sexual purposes rather than for forced labour, aiming at promoting an abolitionist agenda (see also 'Culture, Victimhood, and Discrimination).

3 Governance and Corruption Issues

Governance structures and practices are a key determinant, both directly and indirectly, of anti-trafficking efforts. As direct determinants, the **type of regime**, adherence to the **rule of law**, and **gender representation in policy-making** contribute to determining whether, and if so, how, trafficking is dealt with by a government. Contested territories present significant challenges – in territories where *de jure* and *de facto* jurisdiction are disconnected, there is often an inability, and sometimes unwillingness, to engage in meaningful anti-trafficking efforts, with instability and political tensions acting as hindrances. As indirect determinants, governance structures and practices have a substantial impact on, *inter alia*, CSOs, international law, external monitoring, and acknowledgment and framing, by building the structure in which determinants interact and are deployed. **Corruption** has been identified as a systemic problem that hinders anti-trafficking efforts, not only as it contributes to the creation (or maintenance) of a culture of impunity, but also as it can disperse political will and have a negative impact across determinants.

---

[3] For example, see Yvonne C Zimmerman, 'From Bush to Obama: Rethinking Sex and Religion in the United States' Initiative to Combat Human Trafficking' (2010) 26 Journal of Feminist Studies in Religion 79.

3.1 Partnerships

The establishment and the operationalisation of partnerships have emerged as key determinants of anti-trafficking efforts. Our research has found that **cross-sector, inter-governmental, and international collaboration agreements and mechanisms have a positive impact on governments' anti-trafficking action**. Often times, partnerships fill a gap when governments possess political will to counter trafficking, but lack resources, expertise, and capacity to design and implement anti-trafficking efforts.

The complexity of trafficking necessitates **cross-sectoral collaboration**. This includes collaboration between law enforcement, civil society organisations, social services, government bodies, the private sector, medical staff, and the care sector (e.g., Armenia, Bahamas). **Coordination across government departments** helps ensure that the different areas of anti-trafficking measures are sufficiently addressed, and it facilitates political commitment and resourcing to trickle down anti-trafficking efforts through different agencies and different levels of government. These collaborations are necessary to maximise resources, time, and expertise, which are channelled into anti-trafficking work (e.g., Armenia, Philippines).

Beyond collaboration *within* governments, **collaboration *between* governments** can incentivise and facilitate improvements to national anti-trafficking efforts. Intergovernmental cooperation can influence national efforts though facilitating knowledge exchange, providing a space for pressure to be exerted, and amplifying concerns of reputation (e.g., Armenia). The importance of intergovernmental collaboration is acutely highlighted with cross-border trafficking, yet cooperation between governments is a field charged with political tension, and diplomatic obstacles can prevent effective collaboration (e.g., Algeria). **Regional cooperation**, especially when implemented in a structured regional framework, may be extremely beneficial (e.g., Argentina, Armenia, Brazil, Chile), and may also assist in overcoming bilateral hurdles (e.g., Algeria).

The influence of **international organisations** in compliance revolves around capacity building to ensure that commitments are being implemented in practice (e.g., Bahrain, Brazil, Guyana). International organisations are also influential in increasing awareness amongst national governments (e.g., Chile). They can garner a political consciousness and interest to develop anti-trafficking frameworks, as well as advise on the impact trafficking is having on national economies and societies. They also provide reliable data on trends of trafficking, which influence both understanding and tailored responses.

In addition to governments, international organisations, and NGOs, the **private sector** can also be a strategic and relevant partner in anti-trafficking action and contribute to shape States' efforts (e.g., United Kingdom). However, business interests can also be an

obstacle to governments' anti-trafficking efforts, and the governments' interest in listening to the private sector can hinder efforts.

3.2 Specialised Anti-Trafficking Institutions

While specialised institutions could be understood as a form of partnership, their impact on anti-trafficking efforts ought to be evaluated separately in light of their unique nature and characteristics. Some of our case studies have indicated that such institution play a determining role for broader anti-trafficking efforts. These roles include **coordination and streamlining of the implementation of anti-trafficking efforts** (e.g., Brazil, Chile, Georgia), **advancement in prosecutorial efforts and data collection** (e.g., Armenia, Georgia). Due to the cross-sectoral nature of anti-trafficking efforts, specialised institutions in fields related to, albeit not focussed on, anti-trafficking have also proven to be instrumental in the improvement of anti-trafficking efforts (e.g., Chile).

4 International Law

International and regional legal frameworks have been identified as key determinants of anti-trafficking efforts. With the notable exception of the Turkish Republic of Northern Cyprus (TRNC), international law – and more specifically the **Palermo Protocol** – have been found to play a significant role in shaping anti-trafficking efforts. The Palermo Protocol has been deemed to be particularly influential in two distinct areas: **standard setting** and **framing**. While a more detailed discussion on framing is available in the output 'Acknowledgment and Framing', in so far as standard setting is concerned it is worth highlighting that the (minimum) standards enshrined in the Palermo Protocol have been transposed into domestic legislation in the majority of our case studies, and that legislative debates often mention the Protocol as a source of 'guidance' for anti-trafficking efforts. The Protocol, however, has been found to be not consistently able to influence the implementation of anti-trafficking legislation – also due to the lack of a proper and enforceable monitoring mechanism to assess **compliance**. Since 2000, **regional instruments** have been adopted to complement, or expand on, the Palermo Protocol, including the **Council of Europe Anti-Trafficking Convention, EU Directives, and the and the ASEAN Convention on anti-trafficking**. These instruments generally contain higher standards compared to the Palermo Protocol, particularly in the areas of **protection** and **prevention**, and have been found to be significantly influential – especially when coupled with **external monitoring** (see 'External Monitoring, States' Reputation, and (Threats of) Sanctions') – in shaping states' anti-trafficking efforts.

5 External Monitoring, States' Reputation, and (Threats of) Sanctions

External monitoring processes – both international and regional – have the potential of directly influencing anti-trafficking efforts through: 1) **constructive dialogue and recommendations**, 2) **international pressure** and consequences on states' reputation, 3) adoption or threat of **sanctions**, or 4) a combination of the above. Indirectly,

reports and evaluations of monitoring mechanisms can be used as advocacy tools by civil society organisations (including NGOs and the media) to put pressure on the government to improve its anti-trafficking efforts. While most governments (amongst our case studies) regularly engage with external monitoring processes and accept recommendations made by international bodies (even if implementation is often uneven), there is a risk that external monitoring may be perceived as a form of **external interference** in domestic affairs, for political reasons or for reasons linked to concerns around the fairness and transparency of the monitoring process, which might lead to a government seeking to delegitimise or disengaging from monitoring mechanisms. Careful lasting engagement, coupled with support for the development and implementation of measures, and sustained monitoring of effective implementation of recommendations are key to ensuring the success of monitoring processes beyond rhetorical acceptance of recommendations or superficial changes.

6 Case Law

Domestic and regional courts have been instrumental in advancing anti-trafficking efforts in most of the jurisdictions analysed in the context of the project. Yet, most courts suffer from a structural limit: their influence is indeed limited to exercising their **jurisdiction** in relation the cases brought before them. The inter-connection of determinants therefore becomes, once again, crucial. In contexts where the media, CSOs, and specialised anti-trafficking institutions are independent and strong, there is a tendency to see more cases being brought before courts and tribunals, and in turn a stronger influence of judicial decisions on anti-trafficking efforts. Where the media, CSOs, and specialised anti-trafficking institutions are weak, corrupt, or non-existent, there is a pattern of less cases being brought before judges, which in turn hinders the efficacy of case-law as a determinant. Even when cases are brought before the judiciary, however, case-law is not necessary a positive determinant. Indeed, the nature of the legal system and the level of expertise, as well as the socio-cultural understanding of exploitation, can influence the quality and the impact of case-law on anti-trafficking efforts. Similarly, the framing of trafficking in specific context can lead to the establishment of significant case-law on some forms of trafficking (usually trafficking for the purpose of sexual exploitation), while others are substantially ignored. It is also worth highlighting that, at times, it is not a judicial decision, but rather the simple **filing of a case**, that can trigger positive developments in the anti-trafficking sphere, especially if the filing is supported by advocacy from CSOs, media exposure, and/or international pressure. Strategic litigation has also been identified as a key determinant of anti-trafficking efforts.

7 The Role of Civil Society Organisations

CSOs have been found in the literature, expert interviews, and case studies to be key determinants of anti-trafficking efforts, exerting pressure on governments, both internally and externally. While CSOs broadly includes, *inter alia*, NGOs, trade unions, and 'survivor groups', the role of trade unions and 'survivor groups' is still marginal compared to that of

NGOs. CSOs influence anti-trafficking efforts through their **service provision** and their **collaboration** with governments **in their expert capacity**, as well as through their **advocacy** and lobbying work – both domestically and in international *fora*. However, the impact that civil society varies widely from country to country, and depends, *inter alia*, on the 'space' they enjoy in a particular context, on available funding and its origin, and on the relationship with the government (which also relates to political will). Civil society organisations may be specific to anti-trafficking organisations or be focused on related areas with an indirect, yet significant, impact on anti-trafficking.

8 Economic Conditions and External Funding

The availability of resources is a necessary condition for States to commit to and implement anti-trafficking efforts. Availability of internal resources, however, is not *alone* a determinant of anti-trafficking efforts – indeed, available resources could be allocated to other areas of law and policy. It is when availability of resources intersects with, *inter alia*, political will and results in resource allocation to anti-trafficking efforts that the link between resources and efforts is established. Resource allocation is to be understood therefore **beyond availability of resources**, and as **a product of decision-making** and as interlinked with whether and how anti-trafficking is prioritised as a policy issue.

While some States might have sufficient internal resources to allocate (and the will to allocate them to anti-trafficking efforts), others may lack internal resources and need (or prefer) to resort to external funding to implement anti-trafficking efforts. **International funding** for governments has been found to have significant influence and it has substantively contributed to anti-trafficking efforts in countries that did not have sufficient resources to invest in anti-trafficking action. However, there may be **differences between donors or funders' priorities and the needs of particular States**, which may result in States adapting their anti-trafficking efforts to (and project being funded based on) donors and funders' interests, rather than 'internal' priority areas. In addition, over-reliance on external funding and the 'projectisation' of anti-trafficking efforts can be detrimental in the long term – and especially if economic assistance is not accompanied by capacity building.

9 Training and Level of Expertise

High levels of expertise among state authorities and non-state actors engaged in anti-trafficking are found to be positive determinants of anti-trafficking efforts. On the other hand, low levels of expertise are found to be negative determinants of anti-trafficking efforts. Yet, training and level of expertise have an impact both independently and in combination with other key determinants, such as funding, media, and CSOs involvement.

Evidence of how well-trained personnel can better deal with trafficking is provided in some country reports, including Armenia and Cyprus. To be effective, however, training and capacity building must be **sustained** and continually on offer to new staff, to prevent

the benefits of such training from being lost with staff turn-over. In addition to being sustained, training must also be of high **quality**: indeed, it is not sufficient that training is delivered, it must be targeted, comprehensive, and inclusive if improved anti-trafficking efforts are to be achieved.

10 Events and Crises

Crises and events, such as conflicts, natural disasters, major human trafficking incidents or sporting events, can also be determinants of anti-trafficking efforts.

Our research found that **conflicts and natural disasters** are likely to hinder States' efforts. Conflicts and natural disasters generate 'protection gaps', which are heightened by the diversion of political attention and funding that may have been allocated to anti-trafficking towards the emergency situation (see also 'Covid-19'). As anti-trafficking efforts 'are not necessarily understood as immediately life-saving in an emergency situation',[4] governments tend not to prioritise anti-trafficking efforts as an issue requiring an immediate response in an emergency context (e.g., Bahamas, Chile). The lack of resources and capacity in times of emergencies is interlinked with States' governance and political situation, and emergency situations often lead to a **breakdown in the rule of law**. **International organisations** often play an critical role in shaping government responses to trafficking in emergency situations by strengthening State preparedness, capacity-building and resourcing and in some cases by stepping in to offer particular services (e.g. identification and protection).

Emergency situations are not the only major events impacting on anti-trafficking efforts. In the last decade in particular, attention has been placed on sporting events and their role as potential triggers of anti-trafficking efforts has been explored. **Sporting events** have been found to have the potential to **expose human trafficking** taking place and increase demand, and thus pressure governments to adopt anti-trafficking efforts (e.g., Brazil, Mozambique, United Kingdom).

In addition to emergency situations and major sporting events, **specific (and high-profile) cases of human trafficking** can become influential in shaping a State's anti-trafficking efforts. This is particularly true when there is extensive media reporting on the incident, which in turn may lead to significant CSOs advocacy and international pressure (e.g., Argentina, Armenia, Thailand, United Kingdom). Media coverage and advocacy causes public outrage and puts pressure on legislators and policy-makers.

---

[4] Agnes Tillinac et al, 'Addressing Human Trafficking and Exploitation in times of Crisis- Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations' (IOM, 2015) 3.

11 COVID

Situations of emergency and crisis such as the Covid-19 pandemic present both challenges and opportunities for law and public policy. The pandemic has been found to be both a negative and a positive determinant of anti-trafficking efforts: while in most contexts it has hindered efforts – especially with respect to protection, in others it has enabled them – especially with respect to prevention. Covid-19 has been used in many instances as a 'shield or excuse for lack of enough actions or for inaction vis-à-vis combatting human trafficking'. Covid-19 has also undoubtedly been, in and of itself, a determinant of anti-trafficking efforts. Most case study countries reported a **reduction of resources** across the 4Ps (prosecution, protection, prevention, and partnership) – and even in those countries that did not shift resources away from anti-trafficking there were significant disruptions to the implementation of anti-trafficking efforts. Yet, because determinants are inter-connected, other determinants continued to play a key role in shaping anti-trafficking efforts – including political will, economic conditions, the media, partnerships, and CSOs. Indeed, certain states were able to (partly) absorb negative shocks to their anti-trafficking efforts caused by the pandemic through one or more of the above determinants, and to adapt efforts to the evolving context.

Acknowledgements: This project would not have been possible without the generous support of the United States Government J/TIP Office within the Department of State and the team at the J/TIP Office, whose enthusiasm and confidence provided a key impetus to us as we developed this project. We are also eternally grateful to the expert panel members who contributed their time, expertise, and insights to make the project successful, the participants of our expert interviews, the respondents to our survey, the national research consultants that worked with us on the country research and the team at and around BIICL who made this project possible. This project would not have been possible without you. Thank you.

Charles Clore House
17 Russell Square
London WC1B 5JP

T 020 7862 5151
F 020 7862 5152
E info@biicl.org

www.biicl.org

A company limited by guarantee
Registered in England No. 615025
Registered Charity No. 209425