

3P Anti-trafficking Policy Index

Coding Guideline (updated version)

Source: Cho, Seo-Young, Axel Dreher and Eric Neumayer (2013), The Determinants of Anti-trafficking Policies - Evidence from a New Index, *Scandinavian Journal of Economics*, forthcoming.

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, 2001-2012) 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, 2009 and 2012) 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

- **Decomposition 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 exploitation¹²)
- 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

- **Decision 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-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.

¹ Sexual exploitation is known to be the most serious and prevailing form of human trafficking (UNODC 2006, 2012).

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.

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 'adequate' and therefore give score 3.

- 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)

Scoring Examples

Score 5: Germany 2010

Score 4: Ghana 2010

Score 3: Estonia 2010

Score 2: Iraq 2010

Score 1: North Korea 2010

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, 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

• **Decomposition 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 proceedings⁵
- 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

• **Decision 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, 4 or 3.
- 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 'strong'. If four to five are fulfilled, it is considered 'moderate'. If one to three are fulfilled, it is considered 'limited'.

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.

- (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.

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, article 6, 7 and 8)

Scoring Examples

Score 5: Netherlands 2010

Score 4: Czech Republic 2010

Score 3: Israel 2010

Score 2: Egypt 2010

Score 1: Lebanon 2010

3. Prevention

Coding Scheme

In measuring government protection 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 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

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.

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

• **Decomposition 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

• **Decision 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 strong'.
- 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 'strong'.
- 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, article 9, 10, 11, 12 and 13)

Scoring Examples

Score 5: Australia 2010

Score 4: Colombia 2010

Score 3: Hungary 2010

Score 2: Zimbabwe 2010

Score 1: Algeria 2010

(revised on August 15th, 2013)