



# ASSESSMENT REPORT ON THE OUTCOMES OF THE IMPLEMENTATION OF THE LAW

LAW ON COMBATTING  
HUMAN TRAFFICKING



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*LAW ON COMBATTING HUMAN TRAFFICKING*

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Clients	Contractor
Government of Mongolia Coordination Council for Crime Prevention of Mongolia U.S. Embassy in Mongolia World Vision Mongolia The Asia Foundation "Gender Equality Center" NGO	"Development Law Center" NGO

Translated by: Ts.Otgonbaatar

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Should you have any feedback or request on the research report, please contact us at the following addresses:

Ulaanbaatar 211238, Mongolia  
 Post Box-321, Tel/Fax: 976-11-311512  
 Hotline: 1800-1903  
 Facebook: Mongolian Gender Equality Center  
 E-mail: [gendereqcen@gmail.com](mailto:gendereqcen@gmail.com)  
[info@stoptrafficking.mn](mailto:info@stoptrafficking.mn)  
 Website: [www.stoptrafficking.mn](http://www.stoptrafficking.mn)

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## LIST OF ACRONYMS

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AFMCLA	Assistance Fund for Mongolian Citizens Living Abroad.
CC	Criminal Code
CPL	Criminal Procedure Law
DMs	Diplomatic Missions
GEC	Gender Equality Center NGO
GES	General Education School
GOECD	General Office for Execution of Court Decisions
ILO	International Labor Organization
IOs	International Organizations
IOM	International Organization for Migration
LCHT	Law on Combatting Human Trafficking
LGBT	Lesbian, Gay, Bisexual and Transgender
LPWW	Law on Protection of the Witnesses and Victims
MFA	Ministry of Foreign Affairs
MLSP	Ministry of Labor and Social Protection
MOH	Ministry of Health
MOJHA	Ministry of Justice and Home Affairs
NGO	Non-Governmental Organization
NPA	National Police Agency
PROTOCOL	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
SCCCP	Secretariat of the Coordination Council for Crime Prevention
SGPO	State General Prosecutor's Office
TIP	Trafficking in Persons
TOC	Transnational Organized Crime
UN	United Nations
UNCTOC	United Nations Convention against Transnational Organized Crime
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNHCR	United Nations High Commissioner for Refugees
USA	United States of America

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## FOREWORD

In 2008, Mongolia joined the United Nations Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Making efforts to ensure the implementation of the Convention and to combat and prevent trafficking in persons, the State Great Khural (Parliament of Mongolia) adopted the Law on Combatting Human Trafficking in 2012, which has been effective to date.

The Law on Legislation regulates to assess implementation outcomes of legislation every 5 years since it took effect, and when conducting assessment on the implementation of the law, it is stipulated to select either the entire law or certain articles, paragraphs or sub-paragraphs partially depending on the specifics of legal relations and issues under discussion.

In 2020, the Government of Mongolia signed the “Child Protection Compact Partnership” with the United States Department of State. Within this framework, we have had this assessment conducted to deliver policy reviews, suggestions, and recommendations for stakeholders in the areas of analyzing implementation outcomes of the Law on Combatting Human Trafficking, eliminating gaps and duplications as barriers when implementing the law, identifying current situations of the implementation of the procedures and standards which accompanied the law, and relevant difficulties and challenges, defining issues to focus, and improving the law in the future.

When assessing the Law on Combatting Human Trafficking in its entirety, outcomes of the implementation show that its goal attainment is 93.8%, compliance with practice is 31.3%, and level of the law being accepted is 6.3%. Thus, we plan to work to improve the anti-trafficking legal environment, to intensify its improvement, and to develop and get approved of necessary draft procedures.

I would like to thank the team of Development Law Center as the consultant team, who conducted the analysis on outcomes of the implementation of the Law on Combatting Human Trafficking.

I would also like to express deepest gratitudes to the team of Gender Equality Center, who worked on all organizational tasks related to this assessment report.

L. NYAMGEREL  
HEAD OF THE SECRETARIAT OF THE COORDINATION  
COUNCIL FOR CRIME PREVENTION



## INTRODUCTION

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Assessment on outcomes of the implementation of the Law on Combatting Human Trafficking was based on the **“Methodology for the Assessment of Outcomes of the Implementation of Legislation”**<sup>1</sup> (hereinafter referred to as “Methodology”), as stated in the Law on Legislation, adopted in 2015, and in Appendix 6 of Resolution No. 59 on “Approval of Methodologies,” adopted by the Government of Mongolia in 2016.

According to the Law on Legislation, “assessment of outcomes of implementation of legislation shall be carried out every 5 years after the entry into force of the relevant legislation,” and if necessary, it could be done before this timeline. The law also states that when conducting assessment, “entire legislation or some of its articles, paragraphs, and sub-paragraphs may be selected” depending on specifics and problems of relations to be regulated by the legislation.<sup>2</sup>

Research to assess outcomes of the implementation of the “Law on Combatting Human Trafficking” aims not only to verify accomplishments made in the process of the law implementation, but also to identify difficulties and challenges when implementing the law as well as its positive and negative impacts on society, to find potential versions to be implemented in the future properly and effectively, and to provide relevant conclusions and recommendations; the assessment of outcomes of the implementation consists of three stages of planning, implementation, and assessment.

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<sup>1</sup> Government of Mongolia Resolution, Approving Methodologies (2019)

<sup>2</sup> Article 51.3 of the Law on Legislation (2015).

# 1

## PLANNING STAGE

### 1.1. Reasons for the Assessment

United Nations Convention against Transnational Organized Crime (hereinafter referred to as “Convention”) was adopted on December 12, 2000, in Palermo city of the Republic of Italy, and Mongolia joined the Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter referred to as “Protocol”) on May 16, 2008.<sup>3</sup>

The Law on Combatting Human Trafficking (hereinafter referred to as “LCHT”) was adopted on January 19, 2012, and amended in 2012, 2013, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023, but has never once seen assessment of outcomes of its implementation to date. Article 51.3 of the Law on Legislation states, “Unless otherwise specified in this Law, the assessment of outcomes of implementation of legislation shall be carried out every 5 years after the entry into force of the relevant legislation, and it may be carried out before the abovementioned period if it is required.”

A big gap between the number of registered cases (91) and adjudicated cases (30) of Trafficking in Persons (hereinafter referred to as “TIP”) in Mongolia in 2013-2023 raises concerns among researchers, specialists, and stakeholders working on combatting this type of crime. In addition, 2022 Trafficking in Persons Report, annually released by the U.S. Department of State, states, “The Government of Mongolia does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so, and demonstrated increasing efforts; therefore, Mongolia remained on Tier 2.”<sup>4,5</sup>

<sup>3</sup> Law of Mongolia on *Ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of the UN Convention against Transnational Organized Crime to which Mongolia is a party* (2008).

<sup>4</sup> Countries, which implement anti-trafficking actions, are classified into 4 tiers. Tier I: Countries that fully comply with the Trafficking in Persons Acts’ minimum standards for the elimination of trafficking.

Tier II: Countries that do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance (Mongolia has been in this Tier since 2019).

Tier II (Watch List): Countries on Tier 2 requiring special scrutiny because of a high or significantly increasing number of victims; failure to provide evidence of increasing efforts to combat trafficking in persons; or an assessment as Tier 2 based on commitments to take actions over the next year (Mongolia was in this tier in 2018. In 2019, it went up to Tier 2 because of the increased government efforts to eliminate trafficking compared with the previous year).

Tier III: Countries that neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance. Countries in this tier are subject to potential non-humanitarian and non-trade sanctions. [What Do the Tiers of the Trafficking in Persons Report Mean? \(state.gov\)](https://state.gov/what-do-the-tiers-of-the-trafficking-in-persons-report-mean/)

<sup>5</sup> U.S. Embassy in Mongolia, *2022 Trafficking in Persons Report* (2022) <https://mn.usembassy.gov/mn/2022-trafficking-in-persons-report-mn/> accessed: 2023-07-08.

Time has come to assess the implementation of the LCHT given the current social situations that have rapidly changed, and stances expressed by stakeholders on anti-TIP actions. By assessing the implementation of the LCHT, we would be able to determine whether the law is being enforced in actual terms and meeting its goals, whether it could solve social issues and challenges related to human trafficking, and how to improve the law to maximize its impact.

## 1.2. Scope of the Assessment

Setting the scope of the assessment aims to identify the most crucial regulations with high impact that have conceptual importance in the process of studying outcomes of the implementation of legislation. Article 3.3.1 of the Methodology states, “Setting the scope of the assessment should be aimed to identify the most important regulation with high impact, which has conceptual importance in the process of studying outcomes of the implementation of legislation.” Therefore, the scope of assessing the implementation of the Law on Combatting Human Trafficking is set as follows:

*Table 1. Scope of the Assessment*

№	Chapters to Assess	Articles and Provisions to Assess
1	First Chapter. General Provisions	Article 1. Purpose of the Law
		Article 2. Legislations on Combatting Human Trafficking
		Article 3. Definition of Legal Terms
		Article 4. Principles of Action against Human Trafficking
2	Second Chapter. Organization of Activities to Combat Human Trafficking	Article 5. Powers of State Organizations to Combat Human Trafficking
		Article 6. Sub-Council and its Powers
		Article 7. Duties of Legal Entity
		Article 8. Duties of Media Organizations
3	Third Chapter. Method and Form of Actions to Combat Human Trafficking	Article 9. Shelter Housing
		Article 10. Protecting the Dignity and Honor of Victim
		Article 11. Protection of Foreign Citizens and Stateless Persons
		Article 12. Care and Services to be provided to Victims
		Article 13. Protection of Child Victims
		Article 14. Protection and Encouragement of Citizens who Provide Information on Human Trafficking
		Article 15. Compensation for Damages
Article 16. Financing Operations to Combat Human Trafficking		

Additionally, the following scopes have been set. **They include:**

- **To assess if national laws are in line with international treaties and conventions:**
  - UN Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- **To assess if national legislations are well coordinated and harmonized:**
  - Law on Combatting Human Trafficking
  - Criminal Code
  - Criminal Procedure Law
  - Law on Protection of the Witnesses and Victims
  - National Anti-Trafficking Program (implemented in 2017-2021);
- **To assess the infrastructure to implement the LCHT:**
  - Procedures for providing mental rehabilitation services for victims of trafficking in persons (MOH)
  - Procedures for providing victims with jobs and vocational training (MLSP)
  - Procedures for providing victims of TIP and grave and seriously grave crimes abroad with temporary accommodation and food, issuing foreign passports or equivalent documents, repatriation, and other services (MFA)<sup>6</sup>

### 1.3. Assessment Indicators:

When assessing the implementation of the Law on Combatting Human Trafficking, we selected from indicators included in Article 3.4 of the Methodology taking into account of indicators that could realistically express the implementation of articles, provisions, and paragraphs to be assessed.

Selected 3 indicators are

- **Level of goal attainment**
- **Compliance with practice**
- **Level of the law being accepted** considering the ability of indicators in terms of testing the implementation of articles and provisions to assess and possibility of measuring them.

<sup>6</sup> When assessing this act reflecting international treaties, laws, and legal norms, only relevant articles and provisions related to human trafficking, which are there to ensure the implementation of the LCHT, were addressed.

Table 2. Assessment Indicators

№	Chapter to assess	Articles and provisions to be assessed	Indicators
1	First Chapter. General Provisions  (Compatibility between the Convention and national laws)	Article 1. Purpose of the Law	Level of goal attainment
		Article 2. Legislations on Combatting Human Trafficking	
		Article 3. Definition of Legal Terms	
		Article 4. Principles of Action against Human Trafficking	
2	Second Chapter. Organization of Activities to Combat Human Trafficking	Article 5. Powers of State Organizations to Combat Human Trafficking	Level of goal attainment
		Article 6. Sub-Council and its Powers	Level of it being accepted.
		Article 7. Duties of Legal Entity	Compliance with practice
		Article 8. Duties of Media Organizations	
3	Third Chapter. Method and Form of Actions to Combat Human Trafficking	Article 9. Shelter Housing	Level of goal attainment and implementation  Compliance with practice
		Article 10. Protecting the Dignity and Honor of Victim	
		Article 11. Protection of Foreign Citizens and Stateless Persons	
		Article 12. Care and Services to be provided to Victims	
		Article 13. Protection of Child Victims	
		Article 14. Protection and Encouragement of Citizens who Provide Information on Human Trafficking	
		Article 15. Compensation for Damages	
		Article 16. Financing Operations to Combat Human Trafficking	

#### 1.4. Comparison Forms of the Assessment:

Analysis will be made to study if the purpose, principles, and norms of the Law on Combatting Human Trafficking are in line with the UN Convention against Transnational Organized Crime and its Supplementary Protocol, to compare situations before and after the Law took effect, and outcomes throughout the process of the law implementation.

We selected comparison forms of the methodology such as «how it should be vs. how it is now», «after the entry into force», and «case study».

Table 3. Comparison Forms of the Assessment

No	Chapter to assess	Articles and provisions to be assessed	Comparison form
1	First Chapter. General Provisions	Article 1. Purpose of the Law	How it should be vs. How it is now
		Article 2. Legislations on Combatting Human Trafficking	
		Article 3. Definition of Legal Terms	
		Article 4. Principles of Action against Human Trafficking	
2	Second Chapter. Organization of Activities to Combat Human Trafficking	Article 5. Powers of State Organizations to Combat Human Trafficking	How it should be vs. How it is now
		Article 6. Sub-Council and its Powers	After entry into force
		Article 7. Duties of Legal Entity	
		Article 8. Duties of Media Organizations	Case study
3	Third Chapter. Method and Form of Actions to Combat Human Trafficking	Article 9. Shelter Housing	After entry into force  Case study
		Article 10. Protecting the Dignity and Honor of Victim	
		Article 11. Protection of Foreign Citizens and Stateless Persons	
		Article 12. Care and Services to be provided to Victims	
		Article 13. Protection of Child Victims	
		Article 14. Protection and Encouragement of Citizens who Provide Information on Human Trafficking	
		Article 15. Compensation for Damages	
		Article 16. Financing Operations to Combat Human Trafficking	

Using the comparison forms mentioned above, we studied and determined how the implementation of the law meets current situations, how the law regulates relations pertaining to rights, duties, implementation measures, and activities of government bodies, citizens, non-governmental organizations, and other parties, and positive and negative social impacts of the law.

### 1.5. Data Collection Methods:

The following data collection methods were used incorporating quantitative and qualitative data depending on the reasons for the assessment, scope of the assessment, indicators, and comparison forms. These are:

- **Literature Review:** We analyzed studies on TIP and other research reports, as well as relevant statistics and data.
- **Individual interviews:** We collected data by interviewing employees and officials of central state administrative bodies with the mandate to ensure the implementation of the Law on Combatting Human Trafficking and specialized organizations to implement relevant mandates of the government, as well as those enforcing criminal procedures of trafficking in persons cases and crime victims.

# 2

## IMPLEMENTATION STAGE

We worked on the implementation stage following data collection methods chosen during the planning stage. When doing so, we collected statistics and data from relevant institutions and through one-on-one interviews conducted following interview guidelines. In addition, we conducted analysis on international and national laws and acts reflecting legal norms, as well as past research reports.

### 2.1. Statistics and Data Collection

We analyzed statistics of registered TIP cases at the police in the first half in 2013-2023, cases reviewed by prosecutors and resolved court cases. In doing so, we studied statistics of other crimes such as sexual exploitation and organizing prostitution, which are usually classified as TIP initially and later its classifications change during judicial proceedings. When collecting data, we aggregated the number of resolved cases at all courts of first instance on a year-on-year basis and consolidated the data by 68 indicators by cases handled by the police, prosecutors, and courts, and 103 indicators by victims.

Graph 1. Registered and Adjudicated Cases



In the past 10 years, courts have found 59 individuals involving in 30 cases guilty and sentenced them for TIP.<sup>7</sup> They reviewed 91 cases registered with the police involving 68 people. Out of 91 cases registered with the police, courts adjudicated 30 of them, which is 31.8%, and 64.1% of them were convicted by court for committing TIP. The data of courts deciding that it was a victim of TIP have been released since 2018 by each crime classification; thus, it is impossible to find data of victims of crimes resolved by court in 2013-2017, and instead it was found that there were 55 victims in 2018-2022.<sup>8</sup>

<sup>7</sup> A case resolved by a criminal court of first instance within the reporting period is counted as one, and it is resolved again in the following year due to a change of invalidation of the case in an appellate and cessation court, it shall be counted as +1. Judicial General Council, *Report on Adjudication Proceedings*, document number 3/887 (2023).

<sup>8</sup> Judicial General Council, *Report on Adjudication Proceedings*, document number 3/887 (2023).



Apart from the consolidated data, we analyzed court decisions. It is significant to conduct analysis on the judicial practices resolving TIP, difficulties and barriers emerging when implementing the law, gaps and conflicts in terms of legal norms, and how issues related to victims and damages are being resolved. Please check Chapters 3 and 4 for details on statistics and data.

## 2.2. Qualitative Study

**Interview survey:** We developed a micro research guideline to get initial and additional information, clarifications, and explanations by interviews from those involved in TIP, and staff and officials of law enforcement, judicial authorities, and central state administrative bodies with mandates to ensure the implementation of the LCHT, specialized organizations implementing government mandates, and non-governmental organizations, and collected the data according to the guideline.

Table 4. Survey Participants and Size

No	Participants	Random (n)	Female
<b>Those involved in the case</b>		<b>18</b>	
1	Victims (2) and family members of victims (1)	3	3
2	Police officers (detectives)	3	0
3	Prosecutors	3	2
4	Attorneys	2	1
5	Judges	1	1
6	Social workers, psychologists, and doctors	6	4
<b>Institutions and Organizations</b>		<b>8</b>	
7	Ministry of Foreign Affairs	1	0
8	Ministry of Labor and Social Protection	1	1
9	Ministry of Health	1	1
10	General Authority for Border Protection	1	0
11	Secretariat of Coordination Council for Crime Prevention	1	0
12	Self-governing and local administrative bodies of all levels	1	0
13	Non-governmental and international organizations	2	2
		<b>26</b>	<b>15</b>

When collecting data by interview methods, we **formulated subjects of study** as follows. **They include:**

- Damage (material and non-material)
- Victim safety, protection, and legal assistance
- Medical treatment, counseling, and social work
- Difficulties and challenges when resolving cases
- Implementation of the law, rules, and procedures
- Activities, organization, and coordination of governmental organizations
- Activities and initiatives of non-governmental and international organizations.

### 2.3. Document Analysis

In this chapter, we analyzed international and national laws, relevant model laws, best practices, past research and studies conducted on human trafficking in Mongolia, and other significant documents. They include:

- A. Model Law against Trafficking in Persons<sup>9</sup>
- B. Model Legislative Provisions against Trafficking in Persons<sup>10</sup>
- C. Global Report on Trafficking in Persons 2022<sup>11</sup>
- D. Studies conducted on combatting human trafficking in Mongolia:

About 20 research reports were released on combatting human trafficking in 2016-2023. To group these studies by their purposes, they were conducted as follows:

1. Child protection system, mapping, and child labor issues,
2. TIP victim assistance mechanism, protecting the dignity of victims, instilling victim-centered approaches, and victim identification and providing care and services,
3. Implementation of the anti-trafficking law, case handling, classification issues, and circumstances of the crime,
4. Human sexual freedom, prostitution, and sexual exploitation.

Common conclusions and recommendations were proposed from the studies as follows:

- To harmonize existing legal documents on combatting TIP through conducting a study on the implementation of the Law on Combatting Human Trafficking.

<sup>9</sup> United Nations Office on Drugs and Crime, *Model Law against Trafficking in Persons* (1990) [https://www.unodc.org/documents/human-trafficking/UNODC\\_Model\\_Law\\_on\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/human-trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf), Accessed: 2023-07-05.

<sup>10</sup> United Nations Office on Drugs and Crime, *Model Legislative Provisions Against Trafficking In Persons* (2020) <https://humantraffickingsearch.org/resource/model-legislative-provisions-against-trafficking-in-persons/>, Accessed: 2023-07-05.

<sup>11</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons*, (2022) <https://www.unodc.org/unodc/data-and-analysis/glotip.html>, Accessed: 2023-07-05.

- To modify the Criminal Procedure Law and the Law on Protecting Witnesses and Victims in line with the definition of the Law on Combatting Human Trafficking based on more victim-centered approaches.
- To focus on detecting worst forms of child labor and to start work on improving relevant legal environment.
- To develop and implement general guidelines on providing services for children who were victimized by sexual abuse, sexual exploitation, and TIP.
- To correct the current codification of the types and forms of human trafficking as an independent crime in the Criminal Code by amending it, to hold the guilty accountable by the principle of legal certainty of criminal liability, and submit recommendations to the authorities on ensuring conditions to avoid confusion in the criminal proceedings.
- To submit recommendations to the authorities to urgently develop and approve the methodology to calculate emotional damage of the victim, as stipulated in Article 15 of the Law on Combatting Human Trafficking.
- By creating a network to exchange intersectoral information among the government and NGOs, to enable common understanding, support to improve their coordination, to strengthen collaboration, and for participating organizations to assess annually the performance of their cooperation on combatting and preventing TIP against children.
- It is necessary to combat organized crimes, especially by calculating detailed costs to detect, investigate, review, and resolve transnational organized crimes in courts at all levels. Since TIP is an organized, transnational crime, it is crucial to do an economic cost-effectiveness assessment required to detect this type of crime, and to reflect detailed budget for crime detection and resolution, witness protection, and victim assistance in the state budget.
- To improve the implementation of 5 procedures derived from the Law on Combatting Human Trafficking (2012) and 9 procedures from the Law on Protecting Witnesses and Victims.
- To intensify direct assistance for people who became victims of organized crimes, especially by including relevant expenses in the fund to provide assistance for crime victims of the Government Special Funds.
- Even though courts set the compensation of actual damage caused to victims based on evidence they collected, it is only about 6% of the damage for the victim. It is crucial to create legal environment for victims of this type of crime to compensate, especially for emotional damage,<sup>12</sup> health damage, and other actual damage, considering it completely different from other types of crimes.

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<sup>12</sup> Article 15.2 of the Law on Combatting Human Trafficking (2012).

- To codify and implement the payment of compensation for the emotional and material damage for victims, starting with the government to compensate for the damage, and eventually have perpetrators to compensate voluntarily and by force.
- To increase using Articles 12.3 and 13.1 of the Criminal Code rather than alternative articles and provisions with lenient punishment as stipulated in the Administrative Law and Criminal Code and enhance efforts of officers by training them accordingly when investigating and opening inquiry cases into crimes identified by the inspection of child labor or through direct hotlines, which involved or perpetrated by law enforcement officers and trafficking in persons and forced labor cases with the purpose of sexual exploitation, which are co-inspected with law enforcement agencies.
- To clarify judicial process and proceedings by reviewing and amending anti-trafficking laws to eliminate conflicting and overlapped articles and provisions.
- To systematize and fully implement guiding official procedures for government officials including those of the police, immigration agency, and government bodies in charge of children's rights and child labor issues on how to identify and detect TIP victims, especially men and boys, and how to detect and refer to protection services of foreign workers, domestic and foreign citizens passing through major border points, coal transporting domestic workers who are being exploited or treated improperly by Chinese employers residing in the People's Republic of China, and children, women, LGBT and other marginalized people living in mining zones.
- To amend relevant laws to ensure victim protection services regardless whether a criminal case was officially opened against the suspected trafficker.
- To adopt and comply with other relevant procedures and guidelines urgently needed to fully ensure the implementation of the Law on Combatting Human Trafficking adopted in 2012; to train proper officials on how to effectively and efficiently implement the procedures and guidelines.<sup>13</sup>

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<sup>13</sup> U.S. Embassy in Mongolia, *2015 Trafficking in Persons Report* (2015) <https://mn.usembassy.gov/mn/our-relationship-mn/official-reports-mn/2015-trafficking-persons-report-mn/>. Accessed: 2023-07-09.

Objectives, conclusions, suggestions, and recommendations of the past studies conducted on combatting human trafficking could be summarized as follows:

1. To eliminate inconsistencies of legislations and to enable opportunities to implement them in a unified, comprehensive manner.
2. To budget and resolve funding necessary for the activities of organizations engaging in combatting human trafficking.
3. To create infrastructure for organizations combatting human trafficking and to provide them with authority.

# 3

## ASSESSMENT STAGE

### 3.1. NATIONAL AND INTERNATIONAL ANTI-TRAFFICKING LAWS

On November 15, 2000, the UN General Assembly adopted the Convention against Transnational Organized Crimes by its Resolution No. 55/25, which was signed by 147 States on September 29, 2003, putting the Convention into force; currently, more countries have joined the Convention, and it became 191 States as of February 20, 2023.

On May 16, 2008, Mongolia joined the Convention and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, but there was no source of an official Mongolian translation of the Convention with the Protocol only published in Issue №17/734 of the Journal of State Information in 2012, and without uploading it officially online. Therefore, we consider that it is necessary to publish the Convention in the Journal of State Information, and upload the official translation of the Convention and the Protocol on the Unified Legal Information System (legalinfo.mn).

#### **Whether the purpose, principles, and norms of the Law on Combatting Human Trafficking are in line with the UN Convention against Transnational Organized Crimes and its Supplementary Protocol:**

##### **1. Purpose of the Law**

Article 1 of the Convention states, “The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.”<sup>14</sup> On the other hand, Article 2 of the Protocol states, “The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.”<sup>15</sup>

<sup>14</sup> United Nations Office on Drugs and Crime, *United nations convention against transnational organized crime and the protocols thereto* (2004) 13. Accessed: 2023-07-10. <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

<sup>15</sup> United Nations Office on Drugs and Crime, *United nations convention against transnational organized crime and the protocols thereto* (2004) 50. Accessed: 2023-07-10. <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

The purpose of the LCHT is formulated as, “The purpose of this law is to regulate the relations with respect to preventing and combatting human trafficking, determining and eliminating the cause of human trafficking and protecting the rights of victims.”<sup>16</sup>

When comparing the purpose of the LCHT with those of the UN Convention and its supplementary Protocol Mongolia joined, it can be concluded that **the purposes of the international treaty are fully reflected in the national law** despite the regulation on “paying particular attention to women and children” when combatting TIP.

## 2. Concept of human trafficking and criminal elements

The next issue on compatibility among the Convention, Protocol, and the national law is the concept of human trafficking.

The Criminal Code defines TIP elements and criminal liabilities, whereas the LCHT defines human trafficking as a negative social phenomenon and a criminal act, regulating how to combat it, prevention, and victim protection. Human trafficking as a criminal act is a type of organized crime, making it a phenomenon to be defined as a crime in its entirety. Therefore, the TIP elements stated in the Criminal Code and the conceptual framework of human trafficking of the LCHT are basically aligned.

Article 2 of the UN Convention defines “Organized Crime Group” as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit,<sup>17</sup> whereas Article 3.8.1 of the Criminal Code defines it, “A stable unity of three and more persons joined beforehand to commit permanently crimes to gain benefit shall be deemed an organized criminal group”<sup>18</sup> When comparing the Convention definition with that of the Criminal Code, there is no conflict in terms of concept, only that organized crime groups fitting the definition of the Criminal Code are broader, but it does not mean that it is in conflict with the purpose of the Convention.

On the other hand, in Article 3 of the Protocol, it states, “*Trafficking in persons*” shall mean the recruitment, transportation, transfer, harbouring 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

<sup>16</sup> Article 1.1 of the Anti-Trafficking Law (2012).

<sup>17</sup> United Nations Office on Drugs and Crime, *United nations convention against transnational organized crime and the protocols thereto* (2004) 13. Accessed: 2023-07-10.  
<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

<sup>18</sup> Article 3.8.1 of the Criminal Code (2015).

exploitation.<sup>19</sup> However, Article 13.1.1 of the Criminal Code states that, *“The acts with purposes of engaging in prostitution, sexual exploitation of other forms, raping, taking in slavery and similar condition, removal of possessions and organs, enrollment in forced labor by use of physical force or threatening to use force, manipulating, deceiving, abusing of power, exploiting or controlling the vulnerability of a person, or taking under control by paying to a person or corrupting a person; transporting, giving an asylum, transiting; or receiving”* should be deemed as TIP, and Article 3.1.1 of the LCHT codifies, *“Human trafficking”* means the use of force or the use of force for threats, theft, fraud, deception, abuse of power, taking advantage of their vulnerability for the purpose of forced labor, sexual exploitation or violence in other forms, keeping a person in slavery or similar conditions, sexual slavery, use of person’s cells and organs for exploitation, as well as any illegal acts such as recruitment, transportation, transfer, harbouring or receipt of people through payment or bribery to obtain the consent of a person who controls another person. After comparing these definitions, it is possible to conclude that Mongolia fulfilled its obligations bound by the international treaty and managed to reflect elements of actions and inactions of TIP, criminal liability, and concepts to be used in TIP combatting, prevention, and victim protection system in its national law without any conflict in terms of content.

Additionally, in Article 13.1.2 of the Criminal Code, it states, *“If the same act has been committed...:”*, (1). Being aware of juveniles and pregnant women; (2). Trafficking of two or more persons; (3). *“crossing the borders of Mongolia...,”* while Article 13.1.3 states, *“The same acts, if committed in the following ways, shall be punishable...:”* (1). *“continuously and constantly;”*, (2). *“by organized crime group,”* and the legal meaning of terms explains, *“In consideration of this crime to be committed against a juvenile or minor, it shall not be required the commitment through the means specified in the paragraph 1 of this article”*. It also regulates, *“Consent of the victim shall be nullified should one of the aforementioned methods of human trafficking be present in the case”*.

***As can be seen above, Mongolia fulfilled its obligations as stipulated in Article 5.1 of the Palermo Protocol, “to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.”***

Elements of TIP in the Criminal Code contain all three elements of the purpose, action, and means of exploitation as defined in Article 3 of the Protocol.

As the Protocol states, the first element of TIP is **action**. **Actions** of recruitment, transportation, transfer, harbouring or receipt as mentioned in the Protocol are fully incorporated into the Criminal Code. The second element is **means** of these actions. All the 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

<sup>19</sup> Compilation of State Information (2012) №17/734, 912.



vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person mentioned in the Protocol are reflected in the Criminal Code as criminal elements. The third element of TIP is the **purpose** of exploitation.

The Criminal Code also imposes that TIP shall be an action of having control over another person for the purpose of exploitation, and codifies the consent of a victim of trafficking being irrelevant and if the act committed against a child, none of the means is required to constitute a crime, as stated in sections (b) and (c) of Article 3 of the Protocol.

Analysis on judicial practices resolving TIP and other similar crimes, as well as investigators, prosecutors, and judges, who participated in investigation and proceedings of such crimes view that TIP stipulated in Article 13.1 of the Criminal Code shall have more aggravated elements if it is committed for the intent of gaining profit by forcing the victim into prostitution as stated in Articles 12.3.2 and 12.3.4 of Article 12.3 on Sexual Exploitation, making it competing norms against TIP stated in Article 13.1 of the Criminal Code.<sup>20</sup> In addition, criminalizing forced labor as stated in Article 13.13 of the Criminal Code is overlapped with acts of exploitation by forced labor as stated in Article 13.1 of the law on TIP.<sup>21</sup> It is also concluded that criminal elements of Article 16.4 of the Criminal Code on forced child begging, Article 16.6 on sale of children, Article 16.8 on recruitment of children into pornography, Article 16.9 on advertising child pornography, and Article 16.10 on forced child labor are overlapping with those of TIP, which should be noted.<sup>22</sup>

TIP has three elements: action, means, and purpose. Sexual exploitation (Article 12.3), forced labor (Article 13.13), and crimes against children (Chapter 16) contain competing norms with TIP, but trafficking in persons should be classified as a separate crime by its action of **“recruitment, transportation, transfer, harboring or receipt”**. That is the reason why it is particularly emphasized “without restricting freedom of movement” as elements of “sexual exploitation” in Article 12.3 of the Criminal Code.

A key element of the crime, “human trafficking” translated into Mongolian language as “хүн худалдаалах” is about bringing a person from one’s home or place of residence to another location and having control over the person. “To traffic” in English means to transport, to transfer, or to move a thing from one place to another.<sup>23</sup> Countries around the world view this crime as transnational organized crime and approved the Convention and Protocol to fight it, because the crime transports and transfers victims across borders of countries to “alien places,” putting them in vulnerable situations, having control over them, and causing sexual and other exploitation. However, human trafficking should not be seen only

<sup>20</sup> Analysis on Criminal Procedures of Trafficking in Persons and Similar Cases, Research Report (2022), p. 82.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Oxford English Dictionary, <https://www.oed.com/search/dictionary/?scope=Entries&q=traffic> Accessed: 2023-07-12.

transnational, as there are cases in which victims are trafficked domestically by the means constituting the crime to have control over them and for the purpose of exploitation. It is called domestic human trafficking.

Therefore, victims are not always required to be trafficked transnationally, and moving them from one location to another by a mean of transport or on foot could be a ground for constituting it as TIP; in doing so, it requires any of the means mentioned in the Protocol for the purpose of exploitation. For instance, moving a person from one building to another for the purpose of exploitation by means stipulated in the law should be viewed as “restricting one’s freedom of movement” and elements of the crime.<sup>24</sup>

However, there are many types of crimes such as sexual exploitation, forced labor, and crimes against children in which there are no action elements of TIP, or having control over victims without moving them from their home or place of residence. These crimes should not be generalized as TIP by the Criminal Code. Thus, the research<sup>25</sup> concluding that TIP elements of the Criminal Code being incorrect or overlapped is unjustified.

Therefore, it is unjustifiable to conclude that the Convention, Protocol, Criminal Code, and LCHT are incompatible, or that a law codified TIP elements overlapping it with elements of other crimes; instead, we conclude that the judicial practice should interpret “action” as a key element of TIP properly and classify and resolve cases correctly.

Even though the UN Convention and its supplementary Protocol did not officially modify the TIP elements of “purpose, means, and action,” there is criticism that whether the action of moving from one location to another, or the “recruitment, transportation, transfer, harboring, or the receipt” should be mandatory elements taking account of issues and challenges in terms of actions to combat TIP in countries around the world.<sup>26</sup>

When the LCHT and Criminal Code criminalized TIP, one of compulsory elements to constitute TIP was action of “recruitment, transportation, transfer, harboring, or receipt,” and it still is the same now given that there is no amendment in terms of concepts of the UN Convention and Protocol. However, we can consider that the concept of movement from one location to another is not absolutely necessary to constitute TIP taking account of circumstances of the crime as a negative social phenomenon. Although the Criminal Code considered these circumstances and codified criminal components of “TIP” and “sexual exploitation” as competing norms, enforcing similar sentencing policies, use of these norms attracts a great deal of debate and arguments in the judicial practice.

<sup>24</sup> Mission 89, *Defining human trafficking and its elements* (2022) <https://mission89.org/defining-human-trafficking-and-its-elements/> Last accessed: 2023-07-12.

<sup>25</sup> *Research report on analysis of criminal procedures of trafficking in persons and similar cases* (2022) 82.

<sup>26</sup> U.S. Department of State, *Major Forms of Trafficking in Persons*, (2008).  
[Major Forms of Trafficking in Persons \(state.gov\)](#) Last accessed: 2023-07-12.

If we closely analyze elements of crimes specified in Articles 12.3 and 13.1 of the Criminal Code, any form of sexual exploitation shall be subject to criminal liability in spite of an action of “recruitment, transportation, transfer, harboring, or receipt” was committed; especially, if sexual exploitation, which has elements of organized crimes, is committed “continuously and constantly,” the imposed punishment type and amount shall be same as “two to eight years.” In other words, it is fully possible for Mongolia to combat TIP with an indiscriminate, unified policy and without necessarily changing criminal elements of Article 13.1 of the Criminal Code on Trafficking in Persons.

Consequently, it can be concluded that the concepts on human trafficking as stated in the Criminal Code and LCHT are formulated without any gaps of content in comparison with the concepts as stated in the Convention against Transnational Organized Crime and its supplementary Protocol and these legal norms are in line with the purpose of the law as stipulated in Article 1 of the LCHT. In addition, the application of the law shows that courts have managed to set practice meeting the requirements of international legal norms on trafficking in persons, it can be viewed as “complied with practice.” However, taking account of some participants implementing mandates to combat TIP concluding that components of the crime were wrongly formulated, and it is necessary to eliminate duplicities in sexual exploitation, forced labor, and crimes against children in the future, we consider that the “acceptance level” of legal definitions on the concept of TIP is insufficient, and that it is necessary in the future to conduct training and advocacy activities to mainstream the proper understanding and application of judicial practices, international legal and national legal norms.

### 3. Issues of victims

The next issue on the compatibility among the Convention, Protocol, and national laws is victim identification and protection issue. Therefore, we will address relevant articles of the Convention and Protocol one by one in this section of the research.<sup>27</sup>

#### *Article 25 of the Convention*

- 1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.*
- 2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.*
- 3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.<sup>27</sup>*

<sup>27</sup> United Nations Office on Drugs and Crime, *United nations convention against transnational organized crime and the protocols thereto* (2004) 36. Last assessed: 2023-07-10.  
<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

Article 10 of the Law on Government Special Funds regulates crime victim compensation fund and Article 10.3 states, “The funds of the crime victim compensation fund shall be used ...for victims of crime specified in Article 13.1 (Human Trafficking) of the Criminal Code...” Article 10.5 of the same law states, “The Government shall approve the procedure for compensating crime victims from the Crime Victim Compensation Fund” and the Government of Mongolia approved the procedure by its Resolution No. 220 of 2020 accordingly, which is in force.

Article 6 of the Protocol states, “In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.”

Article 3.1.2 of the LCHT states, “"victim" means a person whose rights, freedoms, and interests have been violated due to human trafficking, regardless of whether a criminal case has been instituted or a person is identified as a victim in accordance with the Criminal Procedure law.” Article 8.1 of the CPL identifies a person as a victim, while their rights and information are ensured by Articles 8.2 and 8.3, respectively; Articles 9-11 of the LCHT, Articles 7-16 of the LPWV, and Articles 13.1, 13.2, and 35.18 of the CPL regulates to protect the safety of victims, and grounds and procedures set forth in Article 29.3 ensure confidentiality for the victim.

*Article 6. 2 (a) of the Protocol. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases: Information on relevant court and administrative proceedings.*

Accordingly, Article 23.3.2 of the LPWV sets duties of organizations to implement protective measures. Article 17 of the law refers to psychological protective measures as in Article 17.2.2: “to inform in advance about the potential occurrence of an unpleasant psychological situation during the investigation process with the participation of witness and victim,” and Article 17.2.3: “to inform in advance about the trial details such as time, order, progress and circumstances.” On the other hand, Article 8.2 of the CPL states, “Article 8.2.1.8. to be introduced with all the materials of the case relevant to him/her after the completion of the investigation, and to submit request for additional investigative actions,” and Article 8.3. imposes, “1.1. Court hearing on modifying pre-trial detention and other restraining measures taken for the accused; 1.2. Transferring inquiry and investigation to the proper jurisdiction; and 1.3. Court trial on resolving early release of convict from imprisonment” to be informed at least 3 days before these actions taken, and “in response to request made by the victim, his/her legal representative, and advocate,

the investigator shall inform of the restraining measures taken on the accused, any modification, termination of such measures, opening and closure of the inquiry case, suspension, and restoring of the investigation, transferring criminal case to the prosecutor.” Consequently, there is a legal environment available to fulfill the obligation bound by Article 6. 2 (a) of the Protocol.<sup>28</sup>

*Article 6. 2 (b) of the Protocol. Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.*

The CPL sets for the participation, rights, and duties of victims at all stages of criminal proceedings. It can be concluded that the requirements set in the Protocol are in line with national laws since victims have rights to defend themselves or to be defended, to obtain legal assistance, to make requests to conduct certain investigation actions and get their evidence reviewed, to participate in court hearing, pre-trial, and trial sessions, to be introduced with all the materials of the case relevant to him/her after the completion of the investigation, to submit requests for additional investigative actions, to claim damage and compensation due to the crime, to make requests for retribution, and to be introduced to the resolution to appoint an expert and relevant sections of the expert opinion.

Article 6.3 of the Protocol states, “Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society,” regulating 4 major issues, which will be assessed below.

*Article 6. 3 (a) of the Protocol: Appropriate housing.*

As specified in Articles 7.1.6 and 13 of the LPWW, if necessary, a victim can be put in a temporary facility meeting the safety requirements based on his/her consent until the threat is gone. Article 9 of the LCHT sets forth to protect victims by relocating them in “shelter housing.” Article 9.4 further states, “The government shall approve the structure, organization and working procedures of shelter housing.”<sup>29</sup>

<sup>28</sup> Although there is a legal basis to ensure information for the victim as set forth in the Convention and the Protocol, in line with national laws, the implementation of regulations to ensure information will be discussed in the next Chapter.

<sup>29</sup> The implementation of this legal norm will be discussed in detail in the following Chapter.

*Article 6. 3 (b) of the Protocol: Counselling and information, in particular as regards their legal rights, in a language that the victims of TIP can understand.*

Articles 18.1 and 23.3.5 of the LPWV specify legal assistance for victims, while Article 23.4 details that a professional team to implement this role should work under the victim protection organization. On the other hand, Articles 5.3.2 and 12.1.4 of the LCHT set forth the necessity of legal assistance for TIP victims, whereas Article 12.2 imposes that a central state administrative body in charge of legal affairs shall approve the relevant procedure for this service.<sup>30</sup>

*Article 6. 3 (c) of the Protocol: Medical, psychological and material assistance.*

Articles 12.1.1, 12.1.2,<sup>31</sup> and 12.2 of the LCHT impose government agencies the duties of medical assistance for victims and appoint a central state administrative body in charge of health issues to develop relevant procedures, while Article 18.1.3 of the LPWC mentions medical assistance for victims and Article 18.3 imposes cabinet members in charge of health and legal issues to jointly approve procedures for medical assistance.<sup>32</sup>

*Article 6. 3 (d) Protocol: Employment, educational and training opportunities.*

Article 18.1.4 of the LPWV specifies assistance provided by the state aimed to ensure the basic needs of witness and victim such as food, clothing, and other necessary household needs, as well as educational needs of underage witness and victim. On the other hand, Article 12.1.3 of the LCHT sets forth providing jobs and vocational training and regulates the central state administrative body in charge of social protection and labor issues to approve procedures for these services.<sup>33</sup>

Consequently, it is possible to conclude that there are legal grounds to implement Article 6 of the Protocol, but we will assess its implementation in the following Chapters.

However, Mongolian laws differently regulate from when it will be adequate to view the person as a victim of TIP, causing confusion. Article 3.1.2 of the LCHT

<sup>30</sup> The following Chapter will address findings on whether legal acts regulating such legal assistance issues according to the relevant legal regulations are applicable and whether there is an infrastructure to implement them.

<sup>31</sup> The following Chapter will address the implementation of Joint Orders A/356 and A/182 by the Mongolian Minister of Health and Minister of Justice, dated October 24, 2014.

<sup>32</sup> The next Chapter explored in detail whether these legal norm acts are approved and their implementation.

<sup>33</sup> The next Chapter assessed the implementation of Order A/135 by the Minister of Labor, dated 2015.

states, "'victim' means a person whose rights, freedoms, and interests have been violated due to human trafficking, regardless whether a criminal case has been instituted or a person is identified as a victim in accordance with the Criminal Procedure Law." It is because TIP victims should be able to get urgent assistance, services, and victim protection without waiting multiple legal processes for a long time.

On the other hand, Article 4.1.1 of the Law on Protection of Witnesses and Victims (LPWV) states, "'witness and victim' means the witness and victim defined in the CPL." Article 8.1 of the CPL states, "1. A victim shall be an individual and/or legal entity that has suffered damage to their life, health, other rights, and freedoms, or physical or non-physical damage caused due to a crime. 2. The decision on recognizing a person to be a victim shall be formalized by the decision of the investigator or prosecutor, or the court."

Therefore, obviously conflicting provisions on the definition of a victim of human trafficking in these two laws create confusion in multiple legal processes on who to view as a victim and when to start victim protection, assistance, and services.

On the one hand, since a crime victim is a participant of criminal proceedings with certain rights and duties, it should be adequate to determine a person as "victim" officially from specific time and stage by a decision of an authorized personnel. However, there is a necessity for victims of trafficking in persons, who suffered serious physical and mental damages, to provide medical, psychological, and legal assistance and to protect them urgently. Therefore, Article 3.1.2 of the LCHT stating, "'victim' means a person whose rights, freedoms, and interests have been violated due to human trafficking, regardless of whether a criminal case has been instituted or a person is identified as a victim in accordance with the Criminal Procedure Law," should be followed by: "based on grounds and procedures specified in the CPL and LPWV, "if there is a ground that a person was victimized due to human trafficking, measures to provide protection, care, and services for the victim should be taken as stated in this law regardless of a decision on recognizing a person to be a victim formalized by the decision of the investigator or prosecutor, or the court." Otherwise, explanation with such content could follow this article.

#### **4. Prevention, cooperation and other measures**

Article 9 of the Protocol states that States Parties shall establish comprehensive policies, programs, and other measures to prevent TIP and its implementation will be assessed subsequently.

*Article 9. 1 (a) of the Protocol: Prevention of Trafficking in Persons.*

Towards fulfilling its obligations bound by the international treaty, Mongolia aimed to create legal environment to implement comprehensive measures to prevent this type of crime by specifying it in the LCHT. The purpose of the law mentions preventing trafficking in persons, and Article 5 defines powers of the government as: “

1. To implement national policies and programs to combat human trafficking;
2. To cooperate with foreign countries and international organizations to combat human trafficking;
3. To cooperate with non-governmental organizations to prevent and combat human trafficking, and to ensure performance of certain functions under the contract.”

In the framework of this legal regulation, the Government of Mongolia approved the “National Anti-Trafficking Program” by its 2017 Resolution No. 148. However, when assessing the implementation of the program, employees and officials of relevant state administrative organizations view that the implementation is **insufficient**. They believe that combatting TIP was active in 2006-2012, whereas it has been left behind since 2012.

**Box 1. A specialist of the MLSP, female, 15 years of work experience**

Mongolia has started focusing and working on combatting TIP since 2006. One of the examples is joining the Palermo Convention to combat Trafficking in Persons. Between 2006 and 2012, the government worked on combatting trafficking in persons at the policymaking and decision-making levels by paying utmost attention to this issue, but you can say that nobody cared about it and left it behind between 2012 and 2016. The implementation of the National Anti-Trafficking Program is insufficient at all levels.

In addition, employees of local administrative and self-governing organizations view that the knowledge and information on TIP and the National Anti-Trafficking Program are insufficient.

**Box 2. Deputy Governor of Bayanzurkh district, male, 4 years of experience**

Generally, information about this LCHT and the national program and extremely insufficient for me. In my opinion, issues related to sexual exploitation and sexual violence appear to be flattened all over.

Certain orders, decrees, and directives have been issued and the law to prevent crimes and offences has been enforced, but the LCHT and the program are not enforced.

There is no specific regulation, procedure, or guideline on how to implement the action “to provide victims and witnesses with information” as stated in Article 23.3.2 of the LPWV, whereas there has been no case in which information was given in practice on judicial and administrative proceedings either. During the qualitative study, an interview with a victim revealed that the victim had no idea about what rights the victim had and at which stage the victim’s case was.



The National Council for Standardization approved the “General requirements on provision of social services for human trafficking victims”<sup>34</sup> by its Resolution No. 58, dated December 19, 2013. Although the standard regulates requirements to provide victims with legal assistance, the interview with the victim indicates that it does not work in practice.

Therefore, the implementation of the law is insufficient as legal regulations to implement it have not been fully developed even though the LCHT, CPL, and LPWV were codified in line with the Convention and Article 6. 2 (a) of the Protocol.

Ignoring that the TIP action should be that of recruitment, transportation, transfer, harboring, and receipt, classifying cases leniently in judicial practices based on the self-acknowledgement of the victim being subject to sexual and other forms of exploitation is unjustified.

## **5 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:**

In the Protocol, which was adopted on January 18, 2002, main rationales are that the transportation of children across borders significantly increases at the international level for the purpose of the sale of children, child prostitution, and child pornography; child sex tourism keeps continuing and expanding, especially it directly affects the sale of children, child prostitution, and child pornography and the majority of those who become victims of sexual abuse are small girls; and cases of child pornography using the internet and other advanced technologies are on the rise. Furthermore, it is characteristic that the Protocol mentions that State Parties should fully reflect actions and activities in their criminal laws and laws on crimes to combat such crimes and impose liabilities regardless of the forms in which these crimes were committed, be it domestic or transnational, or in an individual or organized manner.<sup>35</sup>

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<sup>34</sup> Mongolian Standards, MNS 6418:2013, Article 2.2.4 of the General requirements on provision of social services for human trafficking victims, 2013.

<sup>35</sup> Ministry of Justice and Home Affairs & Ministry of Labor and Social Protection, *Child Protection Compact Partnership: Baseline Study Report on the Project of Protecting Children from Human Trafficking* (2021).

### 3.2. ORGANIZATIONAL IMPLEMENTATION OF ANTI-TRAFFICKING ACTIONS

Article of the LCHT defines state organizations to combat this type of crime and specifies their powers and organization. Certain central state administrative bodies are tasked with the approval and implementation of procedures related to the implementation of the law. These include:

*Table 5. Implementation of Statutory Powers of Central State Administrative Bodies on LCHT*

Central State Administrative Body	Statutory Powers	Implementation Status
1. Government of Mongolia	To implement the National Anti-Trafficking Policy and Program	The National Anti-Trafficking Program was adopted by Resolution No. 148 of the State Great Khural in 2017.
	To approve the procedure for shelter housing	Impossible to assess its implementation as it is not approved.
2. Cabinet member in charge of legal affairs	To create a database to combat trafficking in persons	Impossible to assess its implementation as it is not approved; when asked reasons from the MOJHA, no response was given.
	To approve procedures to ensure the dignity and safety of victims jointly with SGPO	
	To approve a procedure on legal assistance	
	To approve a procedure to encourage citizens, entities, organizations, and officials who carried out activities effectively on implementing the legislation of TIP	
	To approve a procedure on the work of the Sub-Council	Procedure №01 on work and component of Sub-Council was approved in 2021.
3. Central state administrative body in charge of foreign affairs	To approve a procedure as specified in Article 12.1.5 of the law.	Procedure for providing victims abroad with temporary accommodation and food, issuing foreign passports or equivalent documents, and repatriation by diplomatic representative and consular offices was approved by Order A/91 of the Minister of Foreign Affairs in 2013.
	To protect rights and interests of underage citizens of Mongolia who were adopted by foreign citizens	

<p>4. Central state administrative body in charge of social protection and labor issues</p>	<p>To organize and monitor its performance to implement the procedure to provide services as stated in Article 12.1.3.</p> <p>To support and assist activities of NGOs working in the field of victim protection, care, and services.</p>	<p>“Procedure on providing jobs and vocational training” was approved by Order A/135 of the Minister of Labor and Social Protection, dated July 9, 2015.</p> <p>Please see section 5.4 on the implementation of procedures.</p>
<p>5. Central state administrative body in charge of health issues</p>	<p>Article 12.1.1 mentions the approval and implementation of the procedure on “health rehabilitation treatment” and Article 12.1.2 on “mental rehabilitation treatment.”</p>	<p>The mental rehabilitation procedure as stated in Article 12.1.2 was approved.</p> <p>The health rehabilitation procedure of Article 12.1.1 was not approved. The reason is that the procedure has terminologies that do not exist in the Law on Health, which shows incompatibility.</p>

### 1. Implementation of Powers of the Government of Mongolia:

Article 5.1 of the LCHT specifies the powers of the Government of Mongolia on combatting trafficking in persons; this section will address analysis of its implementation as per each legal provision.

*Article 5.1.1 of the LCHT: to implement national policies and programs to combat human trafficking.*

The Government approved the “National Anti-Trafficking Program” by Resolution No. 148, dated May 24, 2017, with the purpose “to ensure the implementation of the Law on Combatting Human Trafficking, to create comprehensive services to protect crime victims, and to expand cooperation among governmental, non-governmental and international organizations towards preventing, combatting, and suppressing such crimes in the future,” and finished implementing the program for 4 years in 2017-2021.

In 2022, SICA LLC conducted the assessment of the program implementation, which was commissioned by the Coordination Council for Crime Prevention.

The assessment mentions that the program aimed to implement 4 objectives and 26 activities, and the program assessment was 91.9%; of 26 activities implemented, 13 were effective, 11 were partially effective, and 2 needed intensive efforts. As for the activities which required intensive efforts to implement:

- To provide organizations with mandates to combat TIP with a unified information network, necessary technical devices, and specialists,
- To establish a TIP advice and resource center.

*The assessment of the program implementation highlights some positive results: Having implemented the national anti-trafficking program, crime detection actions intensified, and it managed to prevent this type of crime from expanding and the number of victims from increasing; actions to combat TIP has now a unified plan with relevant organizations fully mobilized and funded from the state budget and international projects and programs. Citizens have a certain understanding and knowledge of this type of crime and are more conscious about their duties to report human rights violations. By increasing human resources for the activities of the national program, the result shows that crime detection rate increased. Another laudable result is the excellent activities of NGOs working to combat TIP.*

In the future, it is necessary to shift information-exchanging activities among the organizations to the electronic system and to avoid gaps in statistics and data. It is also crucial to increase the number of officers working for the anti-trafficking section of the organized crime division of the criminal police department of the NPA and to focus on their skills growth and sustainability. Improving the crime detection rate will increase circumstances to better care and help to protect victims, to provide socio-psychological and medical services, and to reintegrate them into routine life. In addition, it is necessary to explore nuanced characteristics, work conditions and workloads of employees and officials working on the detection of such crimes and provision of victim assistance and to offer them with flexible working conditions suitable to their job specifications. In the future, it is necessary to further engage activities of NGOs and civil society in protecting victims, providing them with advice and information, and taking responses and to support them with policy support suitable to the characteristics of their work.<sup>36</sup>

*Article 5.1.2 of the LCHT: to cooperate with foreign countries and international organizations to combat human trafficking.*

Cooperation with international organizations has been ongoing to combat and prevent TIP in each field and area. For example:

<sup>36</sup> Ministry of Justice and Home Affairs and Ministry of Labor and Social Protection, *Research report on assessment of the implementation of the National Anti-Trafficking Program* (2022).

- IOM – In 2001, the Coordination Council for Crime Prevention and International Organization for Migration co-organized a national campaign called “Dream Umbrella” to prevent and to provide information on TIP and sexual exploitation.
- UNICEF – has provided technical advice, consultancy, and funding for governmental and NGOs on prevention projects, training, and promotion, and has been supporting the Government of Mongolia since 2018 to implement the project, “We Protect.” The national model of “We protect” mapped a comprehensive structure with 6 elements:
  1. Policy and governance,
  2. Law implementation,
  3. Service situations for victims,
  4. Social factors,
  5. Private sector cooperation,
  6. Activities of media organizations.
- ILO – 8 basic labor relations conventions were ratified, two of which are related to forced labor. Activities carried out are: to implement international judicial practices, to develop recommendations on technical advice and improvement of legal environment, to develop module training program, to hold training to build capacity of journalists and child rights inspectors, to translate ILO indicators of forced labor into Mongolian, and now the international module to eliminate heavy labor among local children and youth, which is ILO 3R (Rights, Responsibilities and Representation), is being put into local practice in Mongolia.
- World Vision Mongolia – in 1998-2017, WVM implemented projects for vulnerable group and street children to reunite with their families, self-development, and life skills training as part of the Child Development and Protection Program. Since March 2014, National Authority for Children, Mobicom Corporation, and WVM co-implemented the project “Children’s Helpline 108.” By 2023, WVM has been working to bring positive change for 500,000 children, especially 140,000 children who are living in tough living situations through advocacy activities to suppress and prevent all forms of child abuse. It has been implementing “Time’s up –Sexual Violence Against Children project” with the EU funding since 2020.
- Good Neighbours INGO – It organizes sexual abuse prevention and early detection for target local children through child sponsor program, home visit and other programs, and if deemed risky, it implements referral activities. It also raises public awareness on prevention of TIP, sexual exploitation, and forced labor through its website.

- The Asia Foundation – The training on “Adopting the victim-centered approach in legal proceedings of trafficking in persons,” implemented in 2017-2019 by funding from the U.S. Government engaged collaboration of metropolitan and provincial police officers, prosecutors, judges, border protection officers, citizens, and immigration officers, covering about 700 government officials.
- Save the Children Japan – It carries out activities to ensure the implementation of the Convention on the Rights of the Child. For example, it implements projects and programs focusing on research, news and information, counseling, training, and advocacy in terms of supporting education, poverty reduction, health, child protection, disaster, and emergency. It has started operating the Child Protection Center since 2015, regularly organizing training on methodological skills development on how to work in a multi-disciplinary task force on children’s rights and advocacy activities and how to conduct case management services targeting social workers.<sup>37</sup>
- Talita Asia NGO – Thanks to the assistance and support of Talita Asia, which is an international organization located in Sweden, two shelters have been operating since 2013 in Ulaanbaatar city, providing long-term psychological and social services for women and girls, who became victims of TIP and sex work.

Furthermore, Mongolia joined the Bali Process. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime was established in 2002 as a non-binding, international, multilateral forum to facilitate cooperation and collaboration, information-sharing and policy development on irregular migration in the Asia-Pacific region and beyond.

The Bali Process membership includes 45 Member States and four international organizations (UNHCR, IOM, UNODC, and ILO).<sup>38</sup>

*Article 5.1.3 of the LCHT: to cooperate with NGOs to prevent and combat human trafficking, and to ensure performance of certain functions under the contract.*

NGOs are implementing projects and programs for TIP victims with the support of IOs. As can be seen from the mapping of services provided for TIP victims, NGO services for victims consist of primary, rehabilitation, and referral services, and duration of each service varies. For instance, those providing routine services of assistance for TIP victims are “Talita Asia” NGO, “Gender Equality Center” NGO, and “National Center Against Violence” NGO, who operate shelters to ensure the safety of victims. “Talita Asia” NGO has experience of housing victims in their

<sup>37</sup> Child Protection Compact Partnership: *Baseline Study of the Project to Protect Child Trafficking* (2021)

<sup>38</sup> Bali Process, *Bali Process Members*, <https://www.baliprocess.net/bali-process-members/> Accessed: 2023-07-12.

shelter for long terms, which is 3 years. Other service providing organizations (“Good Neighbors” NGO, “Unbound Mongolia” NGO, “Human Rights Center for Citizens” NGO, “Beautiful Hearts” NGO, National Network against Intolerable Forms of Child Labor, National Network for Child Protection, and “Lantuun Dohio” NGO) provide primary, rehabilitation, and referral services for victims of sexual abuse and sexual exploitation, and these organizations refer victims to the above-mentioned specialized, professional organizations in case of detecting TIP victims.<sup>39</sup>

In terms of implementation of the LCHT regarding the duties of the Government to implement the national policy and program, to cooperate with foreign and international organizations, and to prevent TIP, it can be concluded that the assessment of outcomes of the law attained its goal, complies with practice, and well accepted.

## 2. Implementation of Powers of the Cabinet Member in charge of Legal Issues:

The LCHT specifically regulates the powers of the government member in charge of legal issues, which will be addressed article by article in the following section.

*Article 5.2.1 of the LCHT: to organize a work to fight and prevent human trafficking within the scope of powers stipulated in Article 26 of the law on Prevention of Crimes and Violations.*

Article 26 of the Law on Prevention of Crimes and Violations regulates that the cabinet member in charge of legal affairs should exercise the following powers for the prevention of crimes and violations. They include:

- to coordinate the activities of the central state administrative body, local administration, court, prosecutor and other law enforcement agency to prevent and combat crimes and violations, and provide supervision to Regulatory Council;
- to monitor and inspect the implementation of legislation and government decisions on crime prevention;
- to consult with the court, prosecutor, police and other law enforcement agency to develop the draft of nationwide action program or plan to combat and prevent crimes for submission to the Government;
- to provide recommendations on preventing and combating crimes;
- to develop the cooperation with foreign countries with respect to preventing and combating crimes and violations;

<sup>39</sup> Child Protection Compact Partnership: *Baseline Study on Children Protection from Human Trafficking* (2021).

- to conduct research to study the causes and conditions of crimes and violations.<sup>40</sup>

Since these tasks are under the general mandate of the Minister of Justice and Home Affairs to prevent crimes and offences, it is impossible to assess them in detail here.

*Article 5.2.2 of the LCHT: to create and enrich a database on human trafficking.*

The assessment of the National Anti-Trafficking Program concludes, “Creating a database on TIP was partially effective.” The reason behind this conclusion is that an online database to receive and process data related to TIP was created in 2018; as of the first half of 2020, the police inserted data on TIP victims and those who were actually and potentially involved into the TIP online database with an initial number of about 1700 with duplication and after removing the overlapped people, it ended up with 1520 individuals. Furthermore, it was linked with “KHUR” digital service system, including the data on vehicles, family status, driving license, real estate property, social insurance, border reference, and past conviction and punishment, to enrich the database. According to the findings of the qualitative study, the criminal police department of the National Police Agency with the mandate to combat TIP has an online database of internal registration of cases, which registers all data of those who were involved in this type of crime.

As of September 2022, the database had data of a total number of 1870 citizens, which is an increase. Although the database was created, only the police use it, which is its downside. The research findings show that it is necessary to develop the database so that organizations working to combat this type of crime should also be able to use it. As Box 4 indicates, the current database is internally used only among officers of the anti-TIP section of the criminal police department of the National Police Agency, who discuss that it is required to develop it now into a database to exchange data mutually.

#### **Box 4. A senior investigator of TIP at the criminal police department**

There is no database or network to exchange information on crime victims and offenders. We register cases internally in our police registration system. Data on an initial case of TIP come to us by jurisdiction either through information we obtained by undercover operations or through complaints. After receiving the case, we refer it to an NGO shelter run by Gender Equality Center and Talita Asia either by phone or by a formal letter. The registration we have is an internal data-exchanging system in official way, which means only within the criminal police department.

<sup>40</sup> Article 26 of the Law on Prevention of Crimes and Violations (2019).



Combatting trafficking in persons should be conducted based on principles to protect personal information on the one hand,<sup>41</sup> and to be unified,<sup>42</sup> and to rely on international cooperation and participation of civil society<sup>43</sup> on the other hand. It is indeed inadequate to consider data, which are used only internally by police and inaccessible to civil society organizations, prosecutors, and other government officials, as a “database”. Because stakeholders involved in combatting trafficking in persons should be able to get information from the database to plan, coordinate, and harmonize their activities to comply with the principles mentioned above. Participants of interviews, who are officials and employees of relevant organizations, proposed the following issues.

**Box 5. Supervising prosecutor of the metropolitan prosecutor’s office, female**

I am not aware of any database on this type of crime. Coordination among government organizations is weak. As a prosecutor, I search for information on such crimes and read and study if such crimes were supervised in the past.

**Box 6. A specialist of the MLSP, female, 15 years of work experience**

In the MLSP database, the [www.etuslamj.mn](http://www.etuslamj.mn) website has been developed since 2022 to register victims of violence. Currently, development of registering TIP victims and services provided for them is in its planning stage.

**Box 7. Deputy Governor of Bayanzurkh district, male, 4 years of experience**

There is no such database at the district level. On the other hand, I think that it is something that is done secretly because it is related to individual confidentiality. At the district level, we do not receive such data from other government organizations.

**Box 8. National Center of Mental Health doctor, male, 18 years of experience**

There is no special database on TIP victims and their treatment. It could be mixed with mental trauma cases, but there is no separate database for TIP victims. Victims of human trafficking and violence would not say in society openly that “I am a victim,” but they hide it, because those individuals are ashamed, afraid, and are self-stigmatized, having mental trauma. When we ask them, they say they suffer depression and stress sometimes and even change schools or move away because of these issues.

**Box 9. An attorney, who provides TIP-specific legal assistance**

There is no database on victims and offenders, but the criminal police department has an internal database. Our clients do not have any available database to get information on where and in which situation a victim is as a follow-up. Although government organizations are obligated to combat human trafficking by law, they are doing their job poorly, and most work is done by NGOs through projects.

Based on the assessment of the program implementation and information gained through interviews from other officials, it is obvious that the database is

<sup>41</sup> Article 4.1.6 of the Law on Combatting Human Trafficking (2012).

<sup>42</sup> Article 4.1.1 of the Law on Combatting Human Trafficking (2012).

<sup>43</sup> Article 4.1.7 of the Law on Combatting Human Trafficking (2012).

merely a tool for the officers of anti-TIP division of the criminal police department of the National Police Agency to exchange information internally. Interviews above indicate that representatives of other organizations have the necessity to participate in the database by registering and exchanging data mutually.

Therefore, it is impossible to view that the database for exchanging data among organizations with legal obligations on TIP had been created, and we conclude that this legal provision was not implemented.

*Article 5.2.3 of the LCHT: to approve a procedure to ensure the dignity and safety of a victim in cooperation with the state prosecutor general.*

It is stated that the cabinet member in charge of legal affairs shall approve a procedure to ensure the dignity and safety of victims in collaboration with the state prosecutor general, but the procedure has not been approved to date. The reason for not having it is unclear. However, officers of law enforcement agencies, attorney offices, and judicial bodies mentioned in their interviews that they need the procedure.

**Box 10. An attorney, male.**

Another issue hindering the implementation of the LCHT has to do with not completing procedures that follow the law. The procedure to ensure the dignity and safety of victims to be issued by the Minister of Justice and General Prosecutor's Office was not done. That is why it is still unclear who will do what. It creates potential risks for victims to suffer further victimization.

The interview with the above attorney shows that a procedure to ensure the dignity and safety of victims has been left out without further regulations.

To conclude, norms specified in Article 5.2.3 of the LCHT "did not achieve its goal," and since the target procedure was not approved, it is impossible to assess whether "it complies with practice," or whether "it is accepted." Although it is impossible to assess compliance with practice and acceptance level, it is still necessary to implement basic requirements of the law, which is to develop and enforce the procedure.

*Article 12.1.4 of the LCHT: legal assistance.*

Article 12.2 of the LCHT states that the procedure to provide legal assistance for TIP victims shall be approved by the central state administrative body in charge

of legal affairs, but currently the procedure has not been approved. When asked about its reason, the relevant Ministry did not respond to the research team.

The 2020 Sub-Council Activity Report mentions, “in practice, a memorandum of cooperation was signed with 12 attorneys of the Mongolian Bar Association to prevent children from crimes of sexual and physical abuse, to provide child victims with qualified attorney assistance, and to offer urgent services and assistance to protect the life, health, and safety of the victim; as of the first half of 2020, the memorandum saw agreements signed to provide legal assistance for a total of 11 cases, collaborating with 7 attorneys. Of these cases, 10 were finalized and the contracts were complete, spending a total of MNT 12,840,000 for the measures mentioned above”.<sup>44</sup>

However, the Law on Legal Assistance was adopted by the State Great Khural of Mongolia on July 1, 2022, which regulates that legal assistance should be provided by the government free of charge, including the victims of trafficking in persons and sexual exploitation. Article 14.1.6 of the law assigns the Minister of Justice and Home Affairs to approve a procedure to provide legal assistance; consequently, №A/351 “Procedure to Provide Legal Assistance” was approved on December 9, 2022.

On the other hand, Article 12.1.4 of the LCHT states, “A central state administrative body in charge of legal affairs shall approve a procedure to provide legal assistance for TIP victims,” which overlaps with the above-mentioned Law on Legal Assistance; thus, it is unclear whether legal assistance should be provided for victims according to the LCHT or the Law on Legal Assistance, and these duplicated norms should be merged.

*Article 16.3.4 of the LCHT: to encourage or reward citizens, enterprises, organizations, and officials who have performed productive activities to implement laws on combating human trafficking.*

The LCHT regulates that the central state administrative body in charge of legal affairs shall approve a procedure to provide incentives for citizens, entities, organizations, and officials, who carried out effective activities towards implementing the law.<sup>45</sup> Subsequently, on January 11, 2016, the Minister of Justice and Home Affairs approved A/08 “Procedure to Provide Incentives” for citizens, entities, organizations, and officials, who work effectively and initiatively towards implementing the anti-trafficking law.

However, the procedure regulates that the amount of the incentive is MNT 500,000 for entities and organizations, and MNT 300,000 for citizens and officials

<sup>44</sup> Section 3.4 of the Sub-Council Activity Report (2020).

<sup>45</sup> Article 16.5 of the Law on Combatting Human Trafficking (2012).

along with a certificate of honor,<sup>46</sup> which are extremely low compared with their work to detect the crime and to reduce social harm.

In terms of the duties mentioned above, the cabinet member in charge of legal affairs has not implemented “to approve a procedure to ensure the dignity and safety of a victim in cooperation with the state prosecutor general” as specified in Article 5.2.3 of the LCHT, a procedure to “Provide Legal Assistance” as specified in Article 12.1.4 of the law, and an activity to create a database.

### 3. Implementation of Powers of the Central State Administrative Body in charge of Foreign Affairs:

Article 5.3 of the LCHT sets forth powers of the central state administrative body in charge of foreign affairs, which is addressed in this section article by article.

*Article 16.3.4 of the LCHT: to encourage or reward citizens, enterprises, organizations, and officials who have performed productive activities to implement laws on combating human trafficking.*

As of April 2023, Mongolia has signed treaty of a mutual legal assistance with 19 countries such as Hungary, Republic of Bulgaria, Romania, Czech Republic, Slovak Republic, Democratic People’s Republic of Korea, People’s Republic of China, Republic of Kazakhstan, Ukraine, Republic of France, and Republic of India. Memorandum of cooperation regulates matters among organizations for countries without such a treaty.

On the other hand, Mongolia is signing a treaty of mutual assistance in criminal matters with the Republic of Turkiye. The draft treaty is underway with the Republic of the Philippines, Malaysia, and the Kingdom of Thailand. In addition, the agreement on mutual assistance in criminal matters, adopted by the Council of Europe, is about to be ratified.

Member States have been submitting a report on the implementation of UNTOC every three years since 2020. As of now, there has been no assessment on treaties.

*Article 5.3.2 of the LCHT. to protect the interests of Mongolian citizens who are victims in foreign countries and providing assistance to them.*

<sup>46</sup> Minister of Justice and Home Affairs, A/08 “Procedure to Provide Incentives” for citizens, entities, organizations, and officials, who work effectively and initiatively towards implementing the anti-trafficking law, (2016), Section 3.1.

The SCCCP, MFA, NPA's Criminal Police Department, IOM, The Asia Foundation, and GEC NGO collaborated and repatriated 18 Mongolian citizens as potential victims of TIP from Malaysia and the Kingdom of Thailand on special duty flights.<sup>47</sup>

*Article 5.3.3 of the LCHT. to organize and supervise the implementation of a procedure for provision of services specified in Article 12.1.5 of this law.*

Article 12.1.5 of the LCHT states, "The diplomatic representative and consular offices representing Mongolia in foreign countries provide a victim with temporary accommodation and food, and issue a foreign passport and similar documents, and bring him/her back to his/her homeland," assigning a central state administrative body in charge of foreign affairs to approve a procedure to provide care and services for victims.

"The procedure for providing victims abroad with temporary accommodation and food, issuing foreign passports or equivalent documents, and repatriation by diplomatic representatives and consular offices representing Mongolia in foreign countries" was approved by Order A/91 of the Minister of Foreign Affairs on November 15, 2013. The purpose of this procedure is to regulate relations to provide other services specified in the law such as ensuring the safety of Mongolian citizens as victims of TIP and other grave and seriously grave crimes abroad, providing them with temporary accommodation and food, issuing foreign passports or equivalent documents until their repatriation by diplomatic representatives, and finally repatriating them.

Interviews on the implementation status of the procedure reveal that it is being implemented reasonably and there is no conflict with other legal acts. However, activities are not broad and ambitious enough due to lack of budget. In addition, there are issues of having no housing within some diplomatic representatives when the consulate decides to bring their citizens who became crime victims under their protection, or even if they have housing, it does not satisfy the requirements of shelter housing. They consider that it is necessary for especially diplomatic representatives and consular offices representing Mongolia in the Republic of Turkiye and Republic of Korea to have standard shelters.

<sup>47</sup> *Sub-Council Activity Report (2020) Section 2.1.*

**Box 11. 3<sup>rd</sup> Secretary of the Consular Department of the MFA**

Even if they do not spend budget to improve the implementation of the procedure to provide services for victims, the government should support their expatriation.

Currently, there is no conflict between the procedure and other legal acts. The issues facing the MFA are not having any space within some diplomatic representatives when the consulate decides to bring their citizens who became crime victims abroad under their protection, or even if they have housing, it does not satisfy the requirements of shelter housing. So, if you want to solve issues in a victim-centered way, it will be better to provide services together with Embassies when protecting victims in countries where there are many Mongolians and where the crime rate against Mongolians is high. Instead of protecting victims in a hotel room or a spare room in the police station as we do now, it will be great to solve the issue of relevant expenses to put them in the building of Embassies or protecting them in collaboration with contracted organizations.

From the interview with the official above, it is clear that the implementation of the procedure is insufficient because funding that should be allocated from “special funds” as specified in Article 3.8 of the Procedure “to renovate standard rooms to protect and accommodate victims” as specified in Article 1.3 was not resolved towards implementing A/91 procedure approved by the Minister of Foreign Affairs, dated November 15, 2013.

Procedure No. A/91 states that necessary expenses to ensure the safety of crime victims who are Mongolian citizens and to provide services should be allocated from the “Assistance Fund for Mongolian citizens living abroad,” approved by Resolution No. 110 of the Government in 2018. On the implementation status, the MFA statement notes:

In terms of the “Assistance Fund for Mongolian Citizens living abroad” (AFMCLA): The MFA uploaded on its website, [consul.mn](http://consul.mn), the report on expenditure and decision from the I and II meetings of the Fund Council in 2023 that MNT 127.8 million were allocated as aid for 30 citizens, including those deceased and became crime victims in foreign countries. As of June 2023, 65 Mongolian citizens died, 195 citizens became crime victims and offenders, and 157 citizens are imprisoned abroad. As of the first half of 2023, diplomatic representatives representing Mongolia in foreign countries have distributed a total of 1000 return passes for Mongolian citizens and have ordered more copies for the future.

In Myanmar, Democratic Republic of Laos, and Kingdom of Thailand, regionally referred to as “Golden Triangle” as a hub of online scam, sex work, labor exploitation, human trafficking and illegal drug trade in Southeast Asia, the number of Mongolian citizens suffering labor exploitation and restricted rights and freedoms and becoming TIP victims has increased. As of the first two months of 2022 and first five of 2023, there were 12 cases of potential TIP victims. They returned home in June 2023 with the cost paid by Gender Equality Center NGO in collaboration with the NPA and thanks to assistance provided by the Embassy of Mongolia in the Socialist Republic of Vietnam. The Embassy organized its consular

protection and put the victims in a hotel. In addition, there were cases of potential TIP victims, who are Mongolian citizens and were traveling in the Republic of Türkiye, Republic of the Philippines and Kingdom of Cambodia. These people returned home thanks to the help of the general consular's office in Istanbul of the Republic of Türkiye and the Embassy of Mongolia in the Republic of Singapore. Common characteristics of the victims are as follows:

- All victims are women aged 21-28.
- They went to countries that do not require travel visas.
- Victims are acquaintances or friends and recruit one another.
- All of them suffered victimization through one mediator.

In terms of the AFMCLA expenditure, 70-80% are allocated for the cremation of those who died abroad and bringing them home; allocation of funds for TIP victims, who are Mongolian citizens, is relatively small. Therefore, it is necessary to approve special funds for the victims of this type of crime. There are 49 Mongolian embassies and diplomatic missions (DMs) abroad, 23 of which have their own buildings and 26 have rented units; as for those with their own buildings, embassies in Beijing, Delhi, Ankara, and Astana can bring Mongolian citizens under their consular protection, whereas consular offices in Kizil, Ulan-Ude, and Erlian are able to do so.

Therefore, respondents mention that suggestions and recommendations should focus on each DM in the future to prepare housing space to bring their citizens under consular protection in emergency situations; if it is impossible, arrange hotels in advance to accommodate victims on simple conditions, and to participate in projects and programs towards creating shelters to protect victims.

*Article 5.3.4 of the LCHT. to protect the rights and interests of Mongolian minors adopted by foreign citizens.*

In terms of the adoption of Mongolian children by foreign citizens, the Immigration Agency of Mongolia operates based on the UN Convention on the Rights of the Child, signed by Mongolia in 1990, Hague Convention on Child Protection and Intercountry Adoption, signed by Mongolia in 1998, Law on Family adopted in 1999, Law on the Legal Status of Foreign Citizens adopted in 2010, Law on Immigration adopted in 1999, "Procedure on the Adoption of Mongolian minors by foreign citizens" jointly approved by Order No. 100/32 in 2001 by the Minister of Justice and Home Affairs and Minister of Labor and Social Protection, Procedure on Monitoring the Crossing of Children through Mongolian borders, approved by the Minister of Justice and Home Affairs in 2017 by Order No. A/49. Statistics show

that as of November 15, 2021, the civil registration office of the General Authority for State Registration registered 11 adopted children.<sup>48</sup>

To conclude the implementation of the powers of the central state administrative body in charge of foreign affairs, approving and implementing the relevant procedure according to the law indicates “goal attainment.” However, it is problematic when it comes to compliance with practice and acceptability level. The reason is that interviews with the NGOs participating in and implementing the procedure and the Sub-Council report mention that the procedure is not being implemented sufficiently due to funding situations and that the NGOs implement the procedure.

#### **4. Implementation of Powers of the Central State Administrative Body in charge of Social Protection and Labor Issues:**

Article 5.4 of the LCHT regulates issues to be implemented by the central state administrative body in charge of social security and labor issues, which will be addressed in this section in detail.

*Article 5.4.1 of the LCHT. to organize and supervise the implementation of a procedure for provision of services specified in Article 12.1.5 of this law.*

Article 12 of the LCHT species that the procedure for provision of care and services for victims “to provide jobs and training” as mentioned in Article 12.1.3 should be done by a central state administrative body in charge of social security and labor issues; thus, the Mongolian Minister of Labor approved the “Procedure for Provision of Jobs and Vocational Training” by its Order A/135, dated July 9, 2015. The procedure has two main objectives of (1) providing jobs, and (2) providing vocational skills.<sup>49</sup>

Article 1.2 of the Procedure states to provide services for citizens identified as victims in the Law on Combatting Human Rights. On the other hand, Article 1.3 of the Procedure states that “Mashal’s Service” should collaborate to provide training and jobs, but this Marshal’s Service had been dissolved, resulting in there is no one in charge.

Articles 3.2-3.4 of the Procedure detail that victims should submit their requests to get the services to the Sub-Council with the mandate to combat TIP and to ensure professional guidance, while the Sub-Council shall review the requests and submit them to the National Employment Service, Research, and Information Center under the Ministry of Labor and Social Protection (MLSP). However, these

<sup>48</sup> “Sub-Council report with the mandate to combat TIP and to provide professional guidance to victims” (2021)

<sup>49</sup> Article 12.1.3 of the Law of Mongolia on Combatting Human Trafficking (2012).



regulations of the procedure impose the Sub-Council to implement powers that are not applicable to those specified in the LCHT, making the approved procedure incompatible with the law.

However, according to the information received from the MLSP, 52 TIP victims have received vocational training services since 2019 when the procedure was approved. 20 TIP victims also attended small business support events for them to get jobs.

In addition, Article 9.6 of Order A/16, dated February 6, 2023, by the Minister of Labor and Social Protection on “Approval of general guidelines and standard costs for employment facilitation activities” mentions to provide TIP victims with jobs and training to ensure the implementation of the Procedure.

*Article 5.4.2 of the LCHT. to support and assist activities of non-governmental organizations with the function of providing protection, welfare and services to victims.*

NGOs work in two ways of being supporters and implementers to combat TIP. There are two NGOs working to provide direct assistance for victims, whereas other NGOs work as supporting organizations.

To implement activities as specified in Article 5.4.2 of the LCHT, the MLSP has been working on a project “Preventing Violence Against Women and Supporting Victims” since 2019 in collaboration with the Ministry of Gender Equality and Family of the Republic, and “Gender Equality Center” NGO has been a contractor for this project.

## **5. Implementation of Powers of the Central State Administrative Body in charge of Health Issues:**

Article 5.5 of the LCHT specifies the powers of the central state administrative body in charge of health issues, which will be addressed in this section in detail.

*Article 5.5.1 of the LCHT. to organize and supervise the implementation of a procedure for provision of services specified in Articles 12.1.1 and 12.1.2 of this law.*

Article 12.2 of the LCHT imposes the central state administrative body in charge of health issues to approve procedures to provide “health rehabilitation treatment” as specified in Article 12.1.1 and “mental rehabilitation treatment” as stated in Article 12.1.2.

Nevertheless, the procedure on health rehabilitation treatment as stated in Article 12.1.1 has not been approved to date. The Public Health Department of the Ministry of Health (MOH) explains the reasons in its official letter, “It is impossible to develop and approve this procedure, because the Law on Health and Law on

Medical Aid and Services do not have terminologies such as “health rehabilitation” ...” However, this service is being provided according to the procedure to provide victims and witnesses with medical aid, approved by Orders 356 and A/182 of the Minister of Health and Minister of Justice, dated October 24, 2014. As services for TIP victims are not registered separately, it is impossible for them to disaggregate data on how many TIP victims received services.

As for the Procedure on Mental Rehabilitation Treatment specified in Article 12.1.2 of the LCHT, Order No. 462 of the Minister of Health approved it on December 9, 2013, and has been implementing it since then. The purpose of the procedure is to provide mental health rehabilitation care and services for patients of TIP victims, those with acute and chronic psychological reactions detected, and those with mental and behavioral disorders (phobic anxiety, sleep, somatoform, depression, and anxiety disorders, post traumatic stress disorder, adjustment disorder, borderline personality disorder, and schizophrenia). Soum and family health centers, provincial and district health centers, general hospitals, and the National Center for Mental Health are also using this procedure to provide mental health care and services. The procedure states that the following diagnosis and treatment standards will be followed based on X International Classification of Diseases when providing mental health care and services. They are:

- MNS 5481- 5:2005, Diagnosis and Management of Phobic Anxiety Disorders
- MNS 5481- 6:2005, Diagnosis and Management of Somatoform Disorders
- MNS 5929-2008, Psychological Diagnosis for Grief.
- MNS 5935-2008, Autogenic Training.

In addition, General requirements on provision of social services for human trafficking victims MNS 6418:2013, were specifically approved for TIP victims on provision of mental rehabilitation treatment by the National Council for Standardization.<sup>50</sup>

Victims of the following crimes received care and services between January 1, 2022, and April 30, 2023. These include:

- 14 victims of sexual abuse and one victim of domestic violence had psychiatric examination and psychological diagnosis followed by drug and therapy treatment.

There are 10 cases of victims brought by their guardians, 4 cases through helpline 108 of the Family, Child, and Youth Development Agency, and one case was registered through a non-governmental organization.

Based on the above, norms specified in Article 12.1.1 of the law did not “attain its goal,” because it was not approved. Since there was no goal attainment, it is impossible to assess its “compliance with practice” and “acceptability level.”

<sup>50</sup> Mongolian Standards, MNS 6418:2013, *General requirements on provision of social services for human trafficking victims* (2013), Article 2.2.3.

However, the procedure specified in Article 12.1.2 of the LCHT was approved and it is justified to view it as “goal attained.” In addition, one can conclude that the “goal is attained,” because 14 victims of sexual abuse and one victim of domestic violence had psychiatric examination and psychological diagnosis followed by drug and therapy treatment according to the procedure. However, the qualitative study conducted on the implementation of the procedure reveals that “it is impossible to provide treatment because the mental state is diagnosed by asking questions” only in practice.<sup>51</sup> Therefore, “acceptability level” of the procedure will be concluded as insufficient.

*Article 5.5.2 of the LCHT. to conduct a training for employees of the medical institution to provide services to victims.*

Based on the official letter from the MOH and information gained from doctors and employees who participated in interview surveys, training, promotion, and information dissemination on combatting trafficking in persons are insufficient. They express that it is necessary to organize training and information dissemination to improve the situations, to collaborate with the police, how to distinguish TIP from other crimes, and how to deliver various medical aid, care, and services.

**Box 12. A doctor of the National Center for Mental Health, female.**

Collaboration is necessary to intensify prevention training, promotion and information dissemination by law enforcement and police and for the health sector to hold training on medical assessment, aid, and services for crime victims targeting law enforcement agencies. Both parties know that these tasks should be done, but they work separately. We do not know who to consider as victims of TIP out of those who came suffering from sexual abuse and harassment, and whether it is okay to consider this type of crime for those victims, but quite some percentage of crime victims are those of sexual abuse.

The MOH report also submits the data on child victims of sexual abuse. For example, there are 15 cases registered as victims of child abuse in January 2022 - April 2023, 14 of whom are victims of sexual abuse. But we can't tell whether they have elements of TIP or not when exploring it further. We can't tell apart: What exactly is TIP? Does it mean that they were taken away and trafficked? Or is it every case of sexual abuse? Information and registration of government bodies are different, which should be unified. Of 14 children to receive diagnosis and psychological aid, 12 were hospitalized at the child and adolescent clinic; 8 were hospitalized for the first time and 4 were repeated.

Concluding from the interview above and the procedure implementation, there are unclear situations in terms of providing victims with assistance and services due to lack of procedures and regulations on how general practitioners should provide medical services for TIP victims, how to receive and serve victims came on emergency calls, whether to compensate for many years or to provide free services in case of unpaid health insurance, or whether it should be resolved by insurance regulations. In addition, all levels of health institutions do not disaggregate their

<sup>51</sup> Qualitative study, interview: a doctor of the National Center for Mental Health.

registrations of gender-based violence victims by a detailed category of “victim of TIP,” causing impossibility and confusion to conduct analysis, to produce data, and to provide care and services for victims.

## 6. Implementation of Powers of Central State Administrative Body in Charge of Education and Science Issues.

Article 5.6 of the LCHT regulates powers of the Central State Administrative Body in Charge of Educational and Scientific Issues to combat TIP, which will be addressed in this section in detail.

*Article 5.6 of the LCHT.*

- 5.6.1. *to cooperate with relevant organizations to prevent human trafficking among educational institutions and students.*
- 5.6.2. *to include the harmful effects of human trafficking in the curriculum and standards of secondary and high schools to combat, prevent or explain or demonstrate it.*

Even though the new curricula of general education schools (GES) incorporated topics of children’s rights, child protection, crime prevention, and legal knowledge into certain subjects based on age characteristics, any subject does not still contain specific chapters or topics on how to identify and prevent TIP committed against children and their forms. During one-on-one interviews with relevant specialists, they mention that time and resources are limited to include specific topics of different sectors in the GES curriculum and in such cases, they incorporate the content of distinguishing crime types and forms into the curriculum of senior grades based on case studies. If we include the content of TIP and other crimes one by one into the GES syllabus, learning hours will be insufficient. Thus, teachers provide general concepts and knowledge and further analyze the crimes based on case studies and interpretations. For instance, it is an idea of learning types and forms of crimes through closely studying traffic accidents and TIP cases.

Joint Orders A/253 and A/252 by the Minister of Justice and Home Affairs and the Minister of Education, Culture, Science and Sports of 2017 approved a procedure on the activities of “Junior Police Academy,” a volunteer group to support prevention of crimes and offences committed around general education schools and how to coordinate their activities with the general management, organization, capacity building, and school patrol activities. This will enable opportunities for children to obtain knowledge about peer conflict, crimes, children recruiting one another, crime prevention, and legal norms, making it significant to reduce crime and offence rates in the future.

Thus, we could not find any information about training conducted in the educational sector on information and knowledge on TIP and how to prevent such crimes.

## 7. Implementation of Powers of Police and Intelligence Organizations.

*Article 5.7 of the LCHT. The police and intelligence organizations will carry out the functions to detect and stop human trafficking and monitor advertisements related to human trafficking.*

Interviews with police officers and testimony by a participant who was mentioned in a court decision show that TIP becomes more prevalent online, especially on Facebook pages through connecting people under posts such as “Looking for financial support,” “seeking \$,” and “will provide ‘sliding massage’.” Even though the Communications Regulatory Commission blocks and resolves such websites and pages, the number of new websites does not decrease. However, legal regulations to allow the operation of saunas and massage parlors based on special licenses were annulled, which made the criminal police department of the NPA unable to have the power to inspect and monitor those saunas and parlors. Therefore, the implementation of detection and suppression of TIP in this field was put to an end.

## 8. Implementation of Powers of State Border Protection Organization.

*Article 5.8 of the LCHT. The state border protection organization shall implement the following functions to combat human trafficking:*

- 5.8.1. to clarify an identity of a child crossing the border of Mongolia, and to check an identity of a person taking care of other's child based on a power of attorney, and the purpose for which a child is being taken, the relationship with the child, any details of the receiving foreign country, citizen, enterprise, or organization.*
- 5.8.2. to check information on a person who will receive a child who travels to a foreign country based on a power of attorney and lives or studies in that country for a long time.*
- 5.8.3. to clarify the reason for non-return of a child in case of leaving a minor who crossed the state border with him/her outside the border and if necessary, refer the matter to the police for investigation.*

“Procedure on Monitoring the Crossing of Children across Mongolian Borders” was approved by Resolution No. A/49 of the Minister of Justice and Home Affairs in 2017, checking the authorization, if people other than their guardians are taking children across borders; documenting parents’ full name, birthdate, document copies and contact details, in case the person should leave the child abroad; and referring it to the police in case of suspicion. In 2022, 102 children remained abroad with 29 by authorization letters, while 73 children crossed the border with their parents and remained in foreign countries.

**Box 13. A specialist of border protection authority, male, 10 years of experience.**

I think this is the best procedure implemented within the legal framework. Another issue should be discussed here. For example, when children aged 16-17 travel abroad, or study in another country, we can't find anyone who would take children by authorization. The Mongolian law states that those aged 18 are adults and those below are children or without legal ability, which creates issues. In case of Mongolians living abroad, they can issue an authorization letter at a consular office and send their children, but it is impossible for children who are studying abroad.

In conclusion, the content of this procedure focuses on sending children across borders but does not specifically regulate issues of combatting and preventing TIP.

**9. Implementation of Powers of State Administrative Body in Charge of Foreign Citizens and Immigration Issues.**

*Article 5.11 of the LCHT. The state administrative body in charge of immigration issues shall exercise its power to prevent and control the exposure of foreign citizens and stateless persons to the crime of human trafficking in the territory of Mongolia.*

In 2021, there was no information registered on foreign citizens as potential TIP victims in Mongolia. However, as it was informed by the IOM, the following two foreign citizens were repatriated.

**Box 14. 3<sup>rd</sup> secretary of the Consular Department of the MFA**

With the family reunification program funding, we sent back a family member to the US, whose female family member became TIP victim in the US. As part of the voluntary repatriation program, we also brought a citizen, who became a victim of TIP and sexual exploitation, from Switzerland safely back to our country.

**10. Implementation of Powers of State Administrative Body in Charge of Children's Issues.**

*Article 5.11 of the LCHT. The state administrative body in charge of children's issues shall carry out activities to protect children at risk of being trafficked, conduct preventive measures, trainings, research, monitoring and evaluation and develop proposals for further measures to be taken within the country.*

The Authority for Family, Child, and Youth Development has not organized any specific training or promotion on combatting TIP.

## 11. Implementation of Powers of Self-Governing and Local Administrative Organizations at All Levels.

*Article 5.12 of the LCHT. Local self-governing and local administrative organizations at all levels shall exercise the following powers:*

- 5.12.1. to fight human trafficking in the territory and take measures to eliminate its causes and conditions.*
- 5.12.2. to support the organization of care and services for victims.*
- 5.12.3. to conduct trainings and advertising activities to combat human trafficking.*
- 5.12.4. to monitor advertisements that may be related to human trafficking within the jurisdiction.*

*Article 13.4 of the LCHT. The governor of the district or soum shall be responsible for enrolling a child victim in an appropriate school.*

Based on the information of interviewed employees of the district governor's office on the implementation of above-mentioned legal provisions, their understanding on TIP knowledge, information, and implementation are insufficient. In terms of information about other types of crimes and crime prevention, they merely distribute posters and share information with GESs in collaboration with law enforcement agencies.

### **Box 15. Deputy governor of Bayanzurkh district, male, 4 years of work experience**

There is no LCHT implementation whatsoever at the Bayanzurkh district level. Legal knowledge and its implementation are extremely insufficient, and we don't know. In terms of prevention work, we published a book with the content that if small children become crime victims or if you feel like they became victims, people should inform the relevant organizations and we distributed books to GES pupils. Although it is related to sexual exploitation and violence, our council did not work on preventing TIP. We gave as many books as possible for 34 GESs. Most recently, we distributed 4000 books in collaboration with the prosecutor's office. The book was not released to prevent TIP, but it was to protect children from sexual exploitation and sexual abuse.

## 12. Implementation of Powers of the Sub-Council.

Articles 6.1-6.5 of the LCHT regulates the procedures, component, duties, and operational costs of the Sub-Council which has functions to coordinate prevention and combating human trafficking, to provide professional management, and to monitor the implementation of this law.

The Minister of Justice and Home Affairs approved a procedure of the Sub-Council component and operations in 2021 by Resolution No. 1 of the CCCP. The procedure states that the Sub-Council shall operate based on the Law on Crime Prevention, other relevant laws, and procedures, convening at least twice a year to hear about situations of this type of crime and to submit semi-annual and

annual narrative reports of its activities of discussing inter-sectoral coordination and cooperation to the Head of the SCCC and the Minister of Justice and Home Affairs.

*Article 6.6. of the LCHT. The sub-council shall exercise the following powers:*

- 6.6.1. to coordinate activities of related organizations, listen to reports, conduct investigations, and issue recommendations in order to ensure the implementation of laws and regulations on combating human trafficking.*
- 6.6.2. to develop proposals for engagement of professional and academic organizations in research on the situation of human trafficking, and for further measures and submit them to the Government through the Coordination Council for Crime Prevention.*
- 6.6.3. to develop and implement guidelines for cooperation with relevant organizations of other countries to combat human trafficking.*
- 6.6.4. to involve citizens, enterprises, and organizations in combating human trafficking, cooperate and support their initiatives, and organize public preventive training and advertising work.*
- 6.6.5. to issue proposals to relevant organizations and officials to impose appropriate liability on enterprises, organizations, and officials who violate laws on combating human trafficking and create the causes and conditions for the crime and demand their implementation.*
- 6.6.6. to take measures to encourage citizens, enterprises, organizations, and officials in accordance with the procedures specified in Article 16.5 of this law.*
- 6.6.7. to develop a proposal to reflect the necessary funds in the state budget for the implementation of laws and programs on combating human trafficking.*
- 6.6.8. to issue general information about human trafficking and its harmful effects.*
- 6.6.9. to monitor and evaluate the implementation of standards of care and services provided to victims.*
- 6.6.10. to organize advanced trainings for employees of organizations with the function of combating and preventing human trafficking.*

Implementation status of the action plan of the National Anti-Trafficking Program in 2017-2021 by the Sub-Council, which was submitted by the SCCC, is as follows:

*Table 6. Implementation of Action Plan of National Anti-Trafficking Program 2017-2021*

Year/planned action	6.6.1	6.6.2	6.6.3	6.6.4	6.6.5	6.6.6	6.6.7	6.6.8	6.6.9	6.6.10	Total
2017/25	4	4	-	14	-	-		-	-	3	25
2020/55	14	6	-	13	-	-	2	-	-	12	47
2021/35	12	2	5	2	-	-	1	-	-	8	30



The table show that the Sub-Council puts more efforts on listening to reports and coordinating activities as specified in Article 6.6.1 of the LCHT and conducting research and training as stated in Articles 6.6.2, 6.6.4, and 6.6.10. However, it did a poor job on conducting inspections, issuing and submitting relevant proposals and recommendations, developing a proposal to reflect necessary funds into the state budget, spending funds, and encouraging stakeholders as specified in Articles 6.6.3, 6.6.5, 6.6.6, 6.6.7, 6.6.8, and 6.6.9 of the law. To conclude, the Sub-Council implements less than 50% of its powers afforded by the law. Reports show that reasons are that the sub-council with the mandate to implement, monitor, and advise on powers given to the Sub-Council is comprised of representation of separate independent government bodies; since it is an institution outside the government system, it does not have a budget and infrastructure to implement its own decisions; since its decisions are not likely to be implemented and it does not have any authority, they merely listen to reports and updates of other organizations rather than implementing activities to combat trafficking in persons.

On the other hand, Order A/17 of the Head of the SCCCP in 2021 approved a terms of reference to function as a member of the working group to support inter-sectoral coordination and cooperation to ensure the implementation of the Child Protection Compact Partnership signed between the U.S. Government and the Government of Mongolia; a Multi-Disciplinary Task Force (MDTF) was formed on a trial basis to support and strengthen multi-sectoral coordination and cooperation towards investigating and resolving cases of TIP with victim-based, especially child-based approaches, providing services for witnesses and victims, and preventing and suppressing all forms of such crimes. Stakeholders express that the trial period shows that the activities of the MDTF have been effective.

### 13. Implementation of Legal Entity Duties.

*Article 7 of the LCHT.*

- 7.1. *Unless otherwise provided by law, a legal entity is obliged to comply with the instructions, recommendations, statements, and requirements given by authorized organizations and officials within the framework of the work of ensuring the fulfillment of the laws on combating human trafficking.*
- 7.2. *If it is found that a legal entity has engaged in human trafficking under the guise of its activities, such legal entity shall be dissolved by court decision.*

Article 7 of the LCHT states that a legal entity is obliged to comply with instructions, recommendations, statements, and requirements given by authorized organizations and officials to combat TIP. In addition, it also states that if it is found that a legal entity has engaged in TIP under the guise of its activities, such

legal entity shall be dissolved by court decisions, and our analysis on court decision of TIP shows that there is no such case, either occurred or registered.

#### 14. Implementation of Duties of Media Organizations.

*Article 8 of the LCHT.*

8.1. *Media organizations are prohibited from distributing the following advertisements and information:*

8.1.1. *information on victims without the written consent of a victim.*

8.1.2. *advertisement for matchmakers and intermediation with a foreign citizen.*

8.1.3. *open or hidden advertisements using all types of media, communications, and electronic networks that may lead to the human trafficking.*

Media organizations are prohibited from distributing information on victims without the written consent of a victim, advertisement for matchmakers and intermediation with a foreign citizen, and open and hidden advertisements.

### 3.3. METHODS, FORMS, AND IMPLEMENTATIONS OF ANTI-TRAFFICKING ACTIONS

**Article 9 of the LCHT** regulates that victims should be placed in a shelter to protect their dignity, reputation, and safety, with the Government approving the shelter structure, organization, and working procedures and NGOs taking care of its operations. However, the procedure of shelter housing has not been approved, and in practice, TIP victims are placed in shelters according to a procedure approved following the Law on Protection of Witnesses and Victims.

Article 9.4 of the LCHT states that the Government shall approve procedures of shelter housing, which is outside of the duties and powers of the Government of Mongolia stipulated by the Constitution of Mongolia.

**Article 10 of the LCHT** protects the dignity and reputation of victims when handled by law enforcement, judicial bodies, and media outlets and prohibits their confidentiality. On this note, "Procedures for uploading court decisions on the website," No. 39, dated in 2022, by the Judicial General Council, regulates that "when uploading and publishing court decisions under judicial proceedings on the website of shuukh.mn," "... personal information such as the name, registration and state registration numbers, address of residence or place of business, and property registration number of persons and legal entities mentioned in the court decisions should be confidential or anonymized".<sup>52</sup>

<sup>52</sup> Judicial General Council of Mongolia, *Resolution on Approval of procedures for uploading court decisions on the website* (2022): [JUDICIAL GENERAL COUNCIL \(judcouncil.mn\)](https://judcouncil.mn) Last accessed: 2023-07-11.

In case of foreign citizens and stateless persons becoming victims of TIP on the territory of Mongolia **Article 11 of the LCHT** regulates that authorized organizations shall protect them and solve their issues of residence until their cases are resolved by court. As of 2021, there is no foreign citizens registered in Mongolia as potential TIP victims.<sup>53</sup>

**Article 12 of the LCHT** imposes the central state administrative body in charge of health issues to approve and implement procedures for providing care and services for victims; please see the implementation of Article 5 for more details.

**Article 13 of the LCHT** regulates how to protect child victims; Article 13.4 assigns district and soum governors to be responsible for enrolling child victims in an appropriate school. During the interview, social workers of shelters mentioned a few times that they heard governors talking about how the provision on enrolling child victims of TIP in schools is not implemented. NGO social workers focus on school dropout and educational attainment for children, but victims living in shelters are unable to go to school due to reasons of not living in a proper address, and even if they enrol them, they discriminate victims by inaction of hardly communicating and failing to give homework or marks.

**Article 14 of the LCHT** ensures the safety of a witness who gave a statement which is crucial for detecting or resolving TIP, or a citizen who gave actual piece information on such crime, or may receive information from citizens for a fee, but the legal provisions are not well understood or reached to the public, failing them to be implemented.

### Compensation paid to victims of TIP

*Article 15 of the LCHT.*

- 15.1. *The victim has the right to demand compensation from a guilty party for property, honor, fame, and emotional damage.*
- 15.2. *Emotional damage to the victim will be compensated in the form of cash.*
- 15.3. *An amount of emotional damage to the victim will be determined by the court under the claim demand of a victim in consideration of the amount of damages caused to the victim.*

Articles 15.1-15.3 of the LCHT mentions victim's rights to demand compensation for property, dignity, reputation, and emotional damage and to be compensated, while the court should determine the amount of damage. When analyzing resolved court decisions, conventional responses are written that victims have rights to "claim it in civil courts." As interviews with victims, NGO social workers,

<sup>53</sup> *The Sub-Council Activity Report (2021), Section 2.2.1...*

and attorneys inform, court decisions are not implemented in practice because it is the attorney, who provided legal aid on criminal cases, is unable to continue the process by filing a claim in a civil court.

This may be the case due to attorney specializations and qualifications in different disciplines of criminal, administrative, and civil laws, but attorneys who worked on criminal cases do not continue handling civil cases. Victims being involved in a crime is a criminal law relation, whereas claiming damage and compensation is a matter of civil law relation. Therefore, victims must hire another attorney, which is time-consuming and ultimately, victims are exhausted from the tiresome process. This is why most cases finish at the stage of criminal court decisions. Once this relation ends in sentencing of criminal cases, while victims are unable to claim future costs and emotional damage in civil courts, there is no general guideline or procedure on how to remedy these damages in court.

When analyzing 41 case files related to TIP, sexual exploitation, and organizing prostitution resolved by court in 2017-2022, results were as follows:

- Emotional damage equalling MNT 4.132.565 was paid for 7 cases.
- Court decisions state that costs should be claimed in civil courts for 6 cases.
- Court decisions do not mention how to compensate damage for 4 cases.
- For 25 cases, claiming emotional and other damages and payments for victims was not mentioned or remained unclear.
- All cases resolved in court mention that criminal proceedings did not cost.

Based on the analysis above, although it is possible to resolve issues legally by claiming damage and payment ensued during investigation, prosecutorial supervision, and court proceeding stages and relevant documents to be regarded as evidence and court assessing it, it is still observed that it is not implemented in practice.

Ideally, there are 24 special funds for victim compensation as stated in the Law on Government Special Funds, two of which are applicable to TIP victims:

**1) Crime Victim Compensation Fund, and**

**2) Assistance Fund for Mongolian Citizens living Abroad.**

1) Article 10.3 of the Law on Government Special Funds specifies the funds of the crime victim compensation fund to be used based on the classification of crimes, which includes Article 13.1 on human trafficking.

To explore the allocation from this fund since 2012, there were 478 compensation payers and 468 payees with a total of MNT 2.648.945.962, but there was no single case of compensation paid to TIP victims.

The crime victim compensation fund aims to provide compensation to legal representatives of persons who lost their lives due to TIP committed on the territory of Mongolia, or victims who suffered serious injury. They shall prepare

the following documents and make requests at provincial and metropolitan court decision execution agencies and departments to claim damage to be compensated by guilty parties:

- Copies of a penalty decree and writ of execution on the compensation of damages to be paid by the guilty party.
- Copy of the civil identification document of an applicant.
- A letter referring to a bank account.
- Documents evidencing that the guilty party or his/her legal representatives did not compensate the damages either fully or partially.

Upon receiving applications, provincial and metropolitan court decision execution agencies and departments submit proposals for compensation to be made within 30 days to the central state administrative body in charge of justice and home affairs quarterly, and if necessary, monthly. A relevant unit at the MOJHA reviews the application and makes a decision on either full or partial compensation, or rejects the proposal. The funds or the compensation from the fund should be executed and paid from the guilty party based on the court decision according to the grounds and procedures specified in the Law on the Enforcement of Court Decision.

However, since there is no case of compensation paid to TIP victims, there has been no data in terms of payment made from this fund from the guilty party.

2) The Assistance Fund for Mongolian Citizens living abroad (AFMCLA) has allocated a total of MNT 3.125.239.532 since 2009 for Mongolian citizens living abroad. In terms of the AFMCLA expenditure, 70-80% are allocated for the cremation of those who died abroad and bringing them home; allocation of funds for TIP victims, who are Mongolian citizens, is relatively small. The MFA informs that 14 cases of potential TIP victims were all repatriated with the cost of GEC NGO in 2022-2023.

Therefore, it is necessary to specifically approve and implement the expenditure for the TIP budgeting and planning.

### **Implementation of Financial Operations to Combat Human Trafficking:**

Article 16.1 of the LCHT regulates that funding for operations to combat TIP shall come from the following sources:

- (1) Funds to be allocated from state and local budgets,
- (2) Costs of crime prevention activities,
- (3) Donations and assistance from foreign countries and international organizations,
- (4) Funds accumulated by the initiative of state and non-state organizations, enterprises and citizens, and

(5) Other sources not prohibited by law.

On the other hand, it is regulated that the centralized funds should be spent on activities of the shelter housing, professional and academic research, training, and advertising, as well as award or incentives for citizens, entities, and NGOs as support.

As for funding from the government on combatting TIP, there were 35 invitations to tender were announced on the tender selection website, “tender.gov.mn” as of 2018-2023. For instance, the selection of consultants for the national anti-trafficking program planned the budget of MNT 95 million in 2018, MNT 126 million in 2019, MNT 114 million in 2020, and MNT 76 million in 2021, respectively.

On the other hand, for the procurement of tools, devices, and equipment for the national anti-trafficking program, tenders or bidding were announced with the amount of MNT 299 million, MNT 60 million in 2022, MNT 215 million, MNT 50 million in 2023, and MNT 120 million, respectively. However, there is no public information available as to how many organizations participated in the selection process of the tenders announced and how many of them were successfully selected or rejected.

Therefore, it is possible to conclude that the implementation of the relevant laws and procedures of the funding and expenditure of operations to combat TIP is insufficient in terms of compliance with practice and acceptability level.

### 3.4. STATISTICS AND DATA ON TRAFFICKING IN PERSONS

#### 3.4.1. Registered Cases

In the past 10 years, there have been 91 cases of TIP as specified in special Article 13.1 of the Criminal Code registered involving 68 people, 27 cases of which involving 42 defendants were transferred with sentencing recommendations by prosecutors, 8 cases involving 9 people consolidated, one case transferred to other authorities, and 49 cases involving 17 people dismissed with 6 remaining cases and 29 cases resolved.

Table 7. Adjudication of Court Cases related to Trafficking in Persons

Criminal Code Chapters and Articles		13.1	124	12.3	12.6
Registered cases	Number of cases	91	94	23	43
	Number of people	69	106	15	29
To be resolved	Number of cases	91	94	23	43
	Number of people	69	106	15	29

Inquiry and supervision done	Resolved	Number of cases		85	94	22	36
			Person	68	106	15	29
		Transferred with sentencing recom.	Case	27	53	11	22
			Person	42	69	13	28
		Consolidated	Case	8	23	1	4
			Person	9	21	0	1
		Transferred to other authorities	Case	1	0	0	0
			Person	0	0	0	0
		Cases dismissed	Case	49	18	10	10
			Person	17	16	2	0
Final balance of the report	Number of Cases		6	0	1	7	
	Number of People		1	0	0	0	

In the past 10 years, there have been 23 cases of sexual exploitation as specified in special Article 12.3 of the Criminal Code registered involving 15 people, 11 cases of which involving 13 defendants were transferred with sentencing recommendations by prosecutors, one case consolidated, and 10 cases involving 2 people dismissed.

In the past 10 years, there have been 137 cases of organizing prostitution as specified in special Article 12.6 of the Criminal Code and of recruitment and organization of prostitution as specified in Article 124 of the Criminal Code (2002) registered involving 135 people, 75 cases of which involving 97 defendants were transferred with sentencing recommendations by prosecutors, 27 cases involving 22 people consolidated, and 28 cases involving 16 people dismissed with 7 remaining cases.

*To conclude, 29.7% of cases registered at the police are transferred to the prosecutor's supervision stage with sentencing recommendations, while 53.85% of cases dismissed after proceedings.*

### 3.4.2. Adjudicated Cases

In 2013-2023, Mongolian courts of first instance adjudicated 30 cases of trafficking in persons (TIP) and convicted 59 defendants.

Table 8. Adjudication of Trafficking in Persons Cases (2013-2022)

Article 113 of CC (2002) Article 13.1 of CC (2015) (TIP)		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
Total cases adjudicated		1	1	2	0	0	3	6	8	6	3	
Number of the convicted		1	1	5	2	0	5	7	19	10	9	
Among it	Those with previous conviction	0	0	1	1	0	1	3	11	4	1	
	Among it											
	2 <sup>nd</sup> conv.	0	0	1	1	0	1	3	1	3	1	
	3+ conviction	0	0	0	0	0	0	0	10	1	0	
Among these	Repeated crime	0	0	0	1	0	0	0	0	0	0	
	Committed in group	0	0	5	1	0	3	4	1	0	1	
	Committed drunk	0	0	0	0	0	0	0	0	0	0	
	Female	1	1	2	1	0	2	2	0	10	3	
	Underage	0	0	0	0	0	0	0	0	0	0	
	Female among them	0	0	0	0	0	0	0	0	0	0	
	Fines imposed	0	0	0	0	0	0	0	0		0	
	All with penalty of forced labor (community service)	0	0	0	0	0	0	0	0	0	0	
Travel ban	0	-	-	-	-	-	-	0	0	0		
Arrested, total	0	0	0	0	0	0	0	0	0	0		
Imprisonment penalty	1	1	5	2	0	5	7	19	10	9		
Imprisoned women	1	1	2	1	0	2	2	1	7	9		
Among them: actually imprisoned, female	1	1	0	1	0	2	2	19	7	3		
Among these	Actual imprisonment served, total	1	1	3	2	0	5	7	19	10	9	
	Probation	0	0	0	0	0	0	0	0	0	0	
	Postponed court decision	Minor	0	0	0	0	0	0	0	0	0	0
		Pregnant, with child up to age 3, single father	0	0	2	0	0	0	0	0	0	0

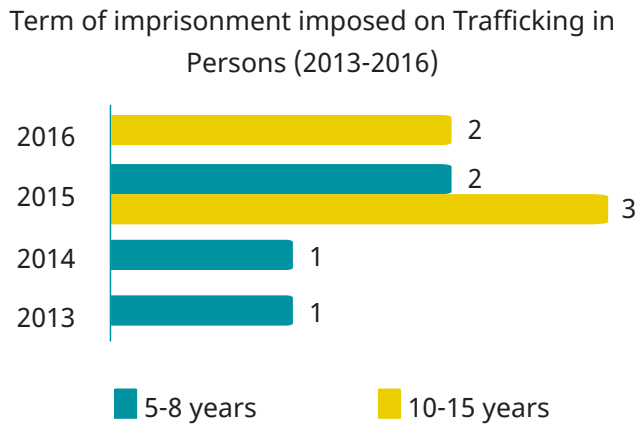


Age of convicts	14-15	0	0	0	0	0	0	0	0	0	0
	16-17	0	0	0	0	0	0	0	0	0	0
	18-29	0	1	2	1	0	2	2	2	5	7
	30-34	0	0	2	0	0	1	1	10	3	0
	35+	1	0	1	1	0	2	4	7	2	2
Education	High	0	0	2	0	0	1	0	0	1	0
	Technical and professional	0	0	0	0	0	0	0	0	0	0
	Vocational secondary	0	0	0	0	0	0	0	0	0	0
	Secondary	1	1	3	0	0	3	4	13	6	4
	Basic	0	0	0	0	0	1	1	5	3	2
	Elementary	0	0	0	0	0	0	1	0	0	3
	Uneducated	0	0	0	2	0	0	1	1	0	0
Jobs and schools of convicts before conviction	Govt. official	0	0	0	0	0	0	0	0	0	0
	Staff of NGO or business entity	0	0	0	0	0	0	0	0	0	0
	Student	0	0	0	0	0	0	0	0	0	0
	Pupil	0	0	0	0	0	0	0	0	0	0
	Soldier	0	0	0	0	0	0	0	0	0	0
	Herder	0	0	0	0	0	0	0	0	0	0
	Other	0	0	2	0	0	1	2	4	1	3
	Jobless, or no school	1	1	3	2	0	4	5	15	9	6
	Convict	0	0	0	0	0	0	0	0	0	0
Citizenship Status	Mongolian citizen	1	1	5	2	0	5	7	19	10	9
	Foreign citizen	0	0	0	0	0	0	0	0	0	0
	Stateless	0	0	0	0	0	0	0	0	0	0

Among those who were convicted, 22 or 37.3% of them are female, 15 or 25.4% of them committed crimes in groups, and 22 or 37.3% have been convicted for a crime in the past. All convicted citizens were sentenced to imprisonment, 57 or

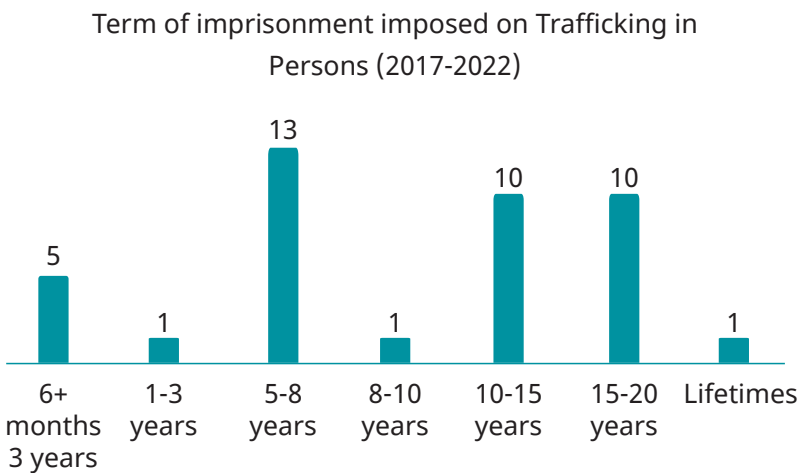
whom or 96.6% served it physically, and 2 or 3.4% postponed the imprisonment penalty. To disaggregate the convicts by age, 22 or 37.3% of them are citizens aged 18-29, 17 or 28.8% of them are those aged 30-34, and 20 or 33.9% of them are above 35. As for education level, 4 or 6.8% of them have higher education, 35 or 59.3% have secondary education, 12 or 20.3% have basic education, and 4 or 6.8% of them have elementary and no education. In terms of employment, 46 or 78% are unemployed citizens.

Graph 2. Term of imprisonment imposed on Trafficking in Persons cases (2013-2016)



As for term of imprisonment imposed on TIP adjudicated in 2013-2016, 4 or 44.4% of them were sentenced to prison for 5-8 years, and 5 or 55.6% of them for 10-15 years.

Graph 3. Term of imprisonment imposed on Trafficking in Persons cases (2017-2022)



As for the term of imprisonment imposed on TIP adjudicated in 2017-2022, 5 or 12.2% of them were sentenced to prison for 0.5-3 years, 1 or 2.4% of them for 3-5 years, 13 or 31.7% for 5-8 years, 1 or 2.4% of them for 8-10 years, 10 or 24.4% of

them for 10-15 years, 10 or 24.4% of them for 15-20 years, and 1 or 2.4% for lifetime imprisonment.

Of crimes registered at the police, 29 or 31.9% of them were adjudicated in court, while the police dismissed 53.8% of the crimes they registered, and prosecutor's offices dismissed about the remaining 14% of the crimes.

As for the term of imprisonment, it was shorter when imposed by the Criminal Code of 2002, whereas 20 or 48.8% of them were sentenced to prison for 10-20 years since the revised Criminal Code started taking force.

In 2013-2017, 32 cases of recruitment and organization of prostitution were adjudicated and 45 people were found guilty.

Table 9. Adjudication of Recruitment and Organization of Prostitution (2013-2017)

CC (2002) Article 124 (Recruitment and Organization of Prostitution)		2013	2014	2015	2016	2017	
Total number of adjudicated cases		7	7	6	6	6	
Total number of convicted people		11	8	9	9	8	
Among them	People with previous convictions	2	0	3	2	2	
	Among them						
	2 <sup>nd</sup> conviction	1	0	1	2	1	
	3 and more convictions	1	0	2	0	1	
Among them	Repeated crimes	0	0	1	1	0	
	Committed in groups	2	0	0	1	0	
	Committed while drunk	0	0	2	0	0	
	Female convicts	8	6	8	8	5	
	Underaged convicts	0	0	0		0	
	Among them, female	0	0	0	8	0	
	Fines imposed	0	0	0	0	0	
Penalty of forced labor, total		1	1	0	2	1	
Penalty of arrest, total		0	0	0	0	0	
Imprisonment sentenced, total		10	7	9	7	7	
Imprisonment sentenced, total female		8	5	4	6	5	
Among them	Imprisonment physically served, total		6	0	3	1	1
	Probation		3	7	4	2	5
	Postponed court decision./ CC Articles 62 and 63 / Among them	Minors	0	0	0	0	0
		Pregnant, mothers with children aged up to 3, single fathers	1	0	1	4	1

Age of convicts	14-15	0	0	0	0	0
	16-17	0	0	0	0	0
	18-29	3	5	7	5	2
	30-34	2	2	1	1	4
	35+	6	1	1	3	2
Education	Higher	0	2	1	1	1
	Technical and professional	0	0	0	0	0
	Vocational secondary	3	0	1	1	1
	Secondary education	7	4	5	4	4
	Basic education	1	2	2	1	1
	Elementary education	0	0	0	2	1
	Uneducated	0	0	0	0	0
Jobs and schools of convicts before conviction	Government official	0	0	0	0	1
	Staff of NGOs or business entities	0	0	0	0	0
	Student	0	0	1	0	0
	Pupil	0	0	0	0	0
	Soldier	0	0	0	0	0
	Herder	0	0	0	0	0
	Other	3	4	1	0	0
	Unemployed, unschooled	8	4	7	9	7
	Convict	0	0	0	0	0
Citizenship status	Mongolian citizens	11	8	9	9	8
	Foreign citizens	0	0	0	0	0
	Stateless persons	0	0	0	0	0

Of convicts, 35 or 77.8% are female. In terms of types of sentences imposed, 5 or 11.1% of them are sentenced to forced labor, and 40 or 88.9% to imprisonment. As for the sentences served, 12 or 30% of convicts served their imprisonment, while 21 or 52.5% were put on probation, and 7 or 17.5% postponed the implementation of the court decisions. To disaggregate convicts by age, 22 or 48.9% are citizens aged 18-29, 10 or 22.2% are aged 30-34, and 13 or 28.9% are above 35. In terms of educational level, 5 or 11.1% are highly educated, 6 or 13.3% have vocational secondary education, 24 or 53.3% have secondary education, 7 or 15.6% have basic education, and 3 or 6.7% have elementary education. As for their employment status, 1 or 2.2% is a government official, 1 or 2.2% is a student, 8 or 17.8% are other, and 35 or 77.8% are unemployed.

*In 2017-2022, 8 cases of sexual exploitation were adjudicated and 25 people were found guilty with 17 defendants convicted.*

Table 10. Adjudication of Sexual Exploitation Cases <sup>54</sup>(2017-2022)

CC (2015) Article (Sexual Exploitation)		2017 <sup>54</sup>	2018	2019	2020	2021	2022	
Total number of adjudicated cases		0	1	0	0	2	5	
Total number of convicted people		0	1	0	0	3	13	
Among them	Those with previous conv.	0	0	0	0	1	4	
	Among them							
	2 <sup>nd</sup> conviction	0	0	0	0	1	2	
	3+ convictions	0	0	0	0	0	2	
Among them	Committed in groups	0	0	0	0	2	0	
	Committed while drunk	0	0	0	0	0	0	
	Female convicts	0	1	0	0	0	7	
	Underaged convicts	0	0	0	0	0	0	
	Female among them	0	0	0	0	0	0	
Fines imposed		0	0	0	0	0	0	
Community service		0	0	0	0	0	0	
Travel ban		0	0	0	0	0	0	
Imprisonment, total		0	1	0	0	3	13	
Imprisonment, female		0	1	0	0	3	7	
Probation instead of imprisonment		0	0	0	0	1	7	
Among them	Imprisonment served, total	0	1	0	0	3	13	
	Postponed court decisions	Minors	0	0	0	0	0	0
		Pregnant, mothers with children aged up to 3, single fathers	0	0	0	0	0	0
Court-imposed sentencing regime	Open	0	1	0	0	3	13	
	Closed	0	0	0	0	0	0	
Age of convicts	14-15	0	0	0	0	0	0	
	16-17	0	0	0	0	0	0	
	18-29	0	0	0	0	1	5	
	30-34	0	0	0	0	1	4	
	35+	0	0	1	0	1	4	

<sup>54</sup> There is no case adjudicated by the crime specified in Article 12.3 of the revised criminal Code of 2015. The 2017 report shows that there is one remaining case.

Education	Higher	0	0	0	0	1	2
	Technical and professional	0	0	0	0	0	0
	Vocational secondary	0	0	0	0	0	0
	Secondary	0	0	0	0	0	7
	Basic	0	1	0	0	0	4
	Elementary	0	0	0	0	2	0
	Uneducated	0	0	0	0	0	0
Jobs or schools of convicts before conviction	Government official	0	0	0	0	0	0
	Staff of NGOs or business entities	0	0	0	0	0	0
	Student	0	0	0	0	0	0
	Pupil	0	0	0	0	0	0
	Soldier	0	0	0	0	0	0
	Herder	0	0	0	0	0	0
	Other	0	0	0	0	0	2
	No jobs or school	0	1	0	0	3	11
Convict	0	0	0	0	0	0	
Citizenship status	Mongolian citizens	0	1	0	0	3	13
	Foreign citizens	0	0	0	0	0	0
	Stateless persons	0	0	0	0	0	0

Of convicts, 8 or 44.4% of them are female. In terms of types of sentences, all of them were sentenced to prison and imposed to serve it physically. In addition, 8 of them were sentenced to compulsory action of probation. As for age groups, 6 or 35.3% of them are aged 18-29, 5 or 29.4% are aged 30-34, and 6 or 35.3% are above the age of 35. As for education, 2 or 11.7% are other and 15 or 88.3% are unemployed.

In 2020-2022, 20 cases of organizing prostitution were adjudicated and 32 people were found guilty with 11 convicted and 21 were put on probation without imprisonment.

Table 11. Adjudication of Organization of Prostitution Cases (2020-2022)

CC (2015) Article 12.6 (Organization of Prostitution)		2020	2021	2022	
Number of adjudicated cases		0	4	16	
Number of defendants convicted		0	3	8	
Among them	Female	0	0	2	
	Adolescents	0	0	0	
Probation without sentencing imprisonment		0	5	16	
Those with previous convictions - total		0	1	0	
How a crime was committed	Female	0	0	0	
	Adolescent	0	0	0	
	Female among them	0	0	0	
	2 <sup>nd</sup> conviction	0	1	0	
	3 and more convictions	0	0	0	
	Found guilty in the past	0	0	0	
	Committed in group	0	0	0	
	Committed while drunk	0	0	0	
Sentenced to fines - total		0	0	0	
Sentenced to community service - total		0	0	0	
Sentenced to travel ban - total		0	0	7	
Sentenced to imprisonment - total		0	3	1	
Imprisonment served - total		0	3	1	
Court decisions postponed	Adolescents	0	0	0	
	Pregnant mothers, mothers with children aged up to 3, single fathers	0	0	0	
Convicts, by age groups	14-15	0	0	0	
	16-17	0	0	0	
	18-21	0	0	0	
	22-29	0	1	2	
	30-34	0	2	1	
	35+	0	0	5	
		55+, female	0	0	0
		60+, male	0	0	0

Convicts, by educational level	Higher	Doctorate	0	0	0
		Master	0	0	0
		Bachelor	0	0	2
	Technical and professional		0	0	0
	Vocational secondary education		0	1	0
	Secondary education		0	2	5
	Basic education		0	0	1
	Elementary education		0	0	0
	Uneducated		0	0	0
Convicts, by employment status	Political position		0	0	0
	State administrative official		0	0	0
	Special government official		0	0	0
	Public service official		0	0	0
	NGO employee		0	0	0
	Business entity employee		0	0	0
	Student		0	0	0
	Pupil		0	0	0
	Herder		0	0	0
	Unemployed		0	1	4
	Convict		0	0	0
Other		0	2	4	
Citizenship status	Mongolian citizens		0	3	8
	Foreign citizens		0	0	0
	Stateless persons		0	0	0
	Unclear		0	0	0

Seven or 63.6% of convicts are sentenced to travel ban and 4 or 36.4% of them to imprisonment. Eight or 44.4% of them are female. In terms of age groups, 3 or 27.3% of them are between 22-29 and 30-34, and 5 or 45.3% are above the age of 35.



Table 12. Information on Victims of Trafficking in Persons (2018-2022)

Year		2018	2019	2020	2021	2022	Total	
Crime Victims - Total		3	10	35	2	5	55	
	Female	3	10	35	2	5	55	
Victims, by age	Adolescent victims	0-4	0	1	0	0	0	1
		5-9	0	0	0	0	0	0
		10-14	0	1	0	0	0	6
		15-17	0	3	11	1	2	18
	18-21	3	2	6	2	3	16	
	22-24	0	3	9	0	0	12	
	25-29	0	0	7	1	0	8	
	30-34	0	0	1	0	0	1	
	35-39	0	0	1	0	0	1	

In 2018-2022, a total of 55 TIP victims were identified through proceedings. The court statistics and data produced before 2017 had not released data on crime victims disaggregated by each article and legal provision.

In terms of age groups, 18 or 32.7% of them are underaged as victims of this crime. As for age groups of adults, 15 or 27.3% of them are aged 18-21, 12 or 21.8% are aged 22-24, 8 or 14.5% are aged 25-29, and 1 or 1.8% are aged 30-34 and 35-39, respectively.

*Of TIP victims, 32.7% were underaged victims, which means that a third of all TIP victims are children. In addition, women become victims of TIP through sexual exploitation. However, there is no registered cases of forced labor and male victims.*

## CONCLUSIONS

Table 13. Assessment Summary

No	Chapters to assess	Goal attainment	Compliance with practice	Level of acceptance
Chapter One. General Provisions (Convention and National Laws Compatibility)				
1	Article 1. Purpose of the Law	Yes	Yes	No
	Article 2. Anti-Trafficking Law	Yes	Yes	No
	Article 3. Definition of Legal Terms	Yes	Yes	No
	Article 4. Principles of Action against Human Trafficking	Yes	Yes	No
Chapter Two. Organization of Activities to Combat Human Trafficking				
2	Article 5. Powers of State Orgs. to Combat Human Trafficking	Yes	No	No
	Article 6. Sub-council and its power	Yes	No	No
	Article 7. Duties of Legal Entity	No	No	No
	Article 8. Duties of Media Orgs.	Yes	Yes	Yes
Chapter Three. Method and Form of Actions to Combat Human Trafficking				
3	Article 9. Shelter Housing	Yes	No	No
	Article 10. Protecting the Dignity and Honor of Victim	Yes	No	No
	Article 11. Protection of Foreign Citizens and Stateless Persons	Yes	No	No
	Article 12. Care and Services to be provided to Victims	Yes	No	No
	Article 13. Protecting Child Victims	Yes	No	No
	Article 14. Protection and Encouragement of Citizens who Provide Info. on Human Trafficking	Yes	No	No
	Article 15. Damage Compensation	Yes	No	No
	Article 16. Financing Operations to Combat Human Trafficking	Yes	No	No
	<b>Total/Percentage</b>	<b>15/16</b>	<b>5/16</b>	<b>1/16</b>
		<b>93.8%</b>	<b>31.3%</b>	<b>6.3%</b>

To assess 3 chapters and 16 articles of the Law on Combatting Human Trafficking entirely, its **goal attainment level is 93.8%, compliance with practice is 31.3%, and acceptance level is 6.3%.**

The United Nations Convention against Transnational Organized Crime was adopted in 2000, and Mongolia joined its supplementary Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children in 2008. However, the Convention and its Protocol Mongolia joined have not been officially published in the Journal of State Information and unified legal information system, violating the relevant provisions of the Law on Legislation, and restricting the opportunity for citizens to access information, which should be noted.

On January 19, 2012, the State Great Khural (Parliament) of Mongolia adopted and enforced the “Law on Combatting Human Trafficking” (LCHT). The law has seen 14 rounds of amendments since then to date. In terms of the purpose of the LCHT and legal meanings of TIP terms, we consider that they are in line with the Convention and Protocol. However, although the UN Convention and its Protocol did not officially modify elements of **“purpose, means, and actions”** of trafficking in persons, it is important to take account of dominating views that movement from a certain location or the action of “recruitment, transportation, transfer, harboring, or receipt” for this crime should not be compulsory elements for all countries around the world. In addition, judicial practices should note in the future that for TIP to be constituted in court, its victims should not be necessarily transported across nations or local areas and the movement from one location to another by a mean of vehicles or on foot alone would be a satisfactory ground.

In 2013-2023, there were 30 disputes related to TIP adjudicated in Mongolia, in which 59 people were found guilty and convicted and no legal entity was documented for this type of crime. Some cases apply specific crime classifications upgrading or mitigating the legal status of defendants due to reasons of the unclear or dubious nature of the law, implying backward steps from the obligations under the Convention. Among the judicial proceedings mentioned above, there was no transnational TIP registered, all TIP victims are female, who were doubly victimized by sexual exploitation. It shows that most cases of TIP committed in Mongolia are perpetrated through sexual exploitation, and there is an urgent need to separate and codify such similar crimes.

Article 5 of the LCHT specifies rights and duties of government organizations to combat this crime, whose implementation was assessed one by one in this study. In 2017, the Government of Mongolia approved and implemented the national program to combat this crime, but the knowledge and information of state administrative officials on it was insufficient, indicating that this program did not achieve its objectives. In addition, the authorized subjects to approve relevant procedures as stated in the law have not done so until today, making it somewhat impossible to assess the law implementation. For instance, “procedure to ensure

the dignity and safety of victims” and “procedure to provide legal assistance” to be approved by the cabinet member in charge of legal affairs and “procedure on health rehabilitation treatment” to be approved by the state administrative body in charge of health issues have not been done.

To combat TIP, it is crucial to solve issues on how to identify and assist victims. However, the concept of TIP crime is codified differently in the Mongolian anti-trafficking law and the Law on Protection of Witnesses and Victims, making it confusing to use laws. In addition, shelters for such crimes should be established according to international and domestic standards depending on the characteristics of TIP.

This assessment report on the outcomes of the law implementation finds that “General requirements on provision of social services for human trafficking victims,” adopted by Resolution No. 58 of 2013 by the National Council for Standardization, regulates the standards of shelter housing for TIP victims in Mongolia, but there are no shelters that meet the standards as of now, and budget issues of how to solve it abroad have not been resolved. Currently, victims of this crime are put in temporary shelters for other crime victims for relevant services instead of standard shelters, which can be seen as failure to fulfillment of the obligations of Mongolia under the convention.

Some legal and procedural provisions are contradicted and/or inconsistent, which creates issues of lack of implementation and duplication in practice. For instance, in terms of the procedure to provide incentives for individuals and legal entities to be approved by the law, a similar procedure is implemented in duplication, which was regulated by the Law on Prevention of Crimes and Violations. As for Order A/135 of the Minister of Labor on providing jobs and vocational training for victims, dated July 9, 2015, this action is stipulated to be carried out in collaboration with the Marshal’s Service, but it is impossible since this authority had been dissolved. As for a procedure to be approved by the Minister of Health, it is regulated to approve a procedure with terminologies that do not exist in the Law on Health, creating further contradictions.

Furthermore, the protection of witnesses and victims is regulated differently by the Law on Legal Assistance, Law on Protection of Witnesses and Victims, and Law on Combatting Human Trafficking, creating legal duplications and competing norms.

It is challenging to provide victims with assistance due to insufficient TIP database and registration of victims. The research reveals that only the police use the database of victims of this crime, making it inaccessible for other authorized organizations to use it; in addition, the health sector as a primary service provider for victims, registers the data of victims of violence, but do not specifically focus on TIP victims, creating situations that are impossible to provide victims with care and services. The research proposes best practices of some countries in which it

is legally regulated that the data on TIP victims should be transferred to relevant authorities based on written consent of victims or their legal representatives, or without such consent unless otherwise stipulated by the law.

The research also finds that the knowledge and information on combatting and preventing TIP of specialists of relevant government organizations are insufficient, and explanations of employees of implementing organizations indicate that the level of the law implementation is not satisfactory. On the other hand, the majority of actions is being implemented by NGOs thanks to external funding for projects and programs.

Even though Article 14 of the LCHT ensures the safety of a witness who gave a statement which is crucial for detecting or resolving TIP, or a citizen who gave actual piece information on such crime, or may receive information from citizens for a fee, resulting in the Minister of Justice and Home Affairs approving the "Procedure to Provide Incentives" with the number of A/08, dated January 11, 2016, the procedure has not been implemented with its incentive amount being low and people are unaware of it.

The Sub-Council mandated to work on combatting and preventing TIP is found to implement less than 50% of its powers afforded by the law. Reports cite reasons in which the members of the sub-council with the mandate to implement, monitor, and advise on powers are representatives of independent government bodies; since it is an institution outside the government system, it does not have a budget and infrastructure to implement its own decisions; since its decisions are not likely to be implemented and it does not have any authority, they merely listen to reports and updates of other organizations rather than implementing activities to combat trafficking in persons.

The purpose of actions to implement the anti-TIP law is comprised of main parts of detection, suppression, and prevention of such crimes and assistance for victims. The analysis on the implementation of the law shows that the assessment of actions and duties of government organizations to combat this crime was at insufficient levels, and procedures to regulate certain actions by special procedures specified in the law have not been approved, making it impossible to enforce the law in practice. Furthermore, inconsistencies and gaps among laws are still present, creating competing norms and regulating rights and norms that are not stated in a law by a procedure. Actions on crime prevention and dissemination of information for citizens are insufficient; public actions have been stagnant ever since the national program was announced by the government. Therefore, the assessment of the law implementation concludes that legal provisions have not been fully implemented and impractical.

Based on these conclusions, we propose the following recommendations:

## RECOMMENDATIONS

1. To contact the Secretariat Office of the State Great Khural as specified in Article 45.3 of the Law on Legislation towards officially translating the Convention against Transnational Organized Crime Mongolia joined and its Protocol and publishing them in the Compilation of “State Information” as specified by Article 43.2 of the law and the Ministry of Justice and Home Affairs to upload them in the unified legal information system as specified in Article 45.3 of the law.
2. To submit a proposal of an official interpretation on *“Victims of trafficking in persons are not necessarily required to have been transported across countries or local areas; it is a ground for constituting a crime of trafficking in persons if a person was moved from one location to another either by a vehicle or on foot; and the action of movement from one point to another as an element of trafficking in persons in foreign counties is not a compulsory element of the crime”* related to *“Trafficking in persons”* of Article 13.1 of the Criminal Code to the chamber of the Supreme Court on criminal cases from the Sub-Council with a mandate to combat TIP and to provide professional management based on Article 25.8.4 of the Mongolian Law on Courts specifying that the Supreme Court of Mongolia is entitled to issue official interpretations on correct applications of laws other than the Constitution of Mongolia.
3. To define “witnesses and victims” as “witnesses and victims” as stated in the Law on Criminal Procedure, adding “the victim as defined in the Law on Combatting Human Trafficking” after “witness” as stated in the Law of Monitoring of the State Great Khural of Mongolia in Article 4.1.1 of the Law on Protection of Witnesses and Victims.
4. To create a database on trafficking in persons by fulfilling its duty as the Minister of Justice to create and enrich a database on human trafficking as specified in Article 5.2.2 of the LCHT. In doing so, to regulate it in an accessible and usable manner for other stakeholders working to combat this crime, such as prosecutor’s offices, health organizations, courts, educational institutions, and NGOs to exchange data based on the current database used by the National Police Agency, and to collect and process data based on the consent of the data subject as stated in Article 6.1.1 of the Law on Personal Data Protection.
5. To approve a procedure as stated in Article 5.2.3 of the LCHT “to approve a procedure to ensure the dignity and safety of a victim in cooperation with the state prosecutor general.”
6. To amend Order A/351 of the Minister of Justice and Home Affairs, dated December 9, 2022, on “to ORDER based on Article 24.2 of the Law on

Government of Mongolia and Article 5.3 of the Law on Legal Assistance” to add “Article 12.1.4 of the Law on Combatting Human Trafficking” after “Article 5.3” to expand the application of the procedure until the approval of a procedure as stated in Article 12.1.4 of the LCHT on approving a procedure on “legal assistance.”

7. To submit a proposal to increase the amount of incentives from the Sub-Council to combat TIP and to provide professional management to the Minister of Justice and Home Affairs by reviewing Article 16.3.4 of the LCHT on a procedure numbered A/08 “to encourage or reward citizens, enterprises, organizations, and officials who have performed productive activities to implement laws on combating human trafficking” by the Minister of Justice, dated January 11, 2016, where it states that MNT 500.000 as award for entities, and MNT 300.000 for citizens and officials.
8. To submit a proposal to include the budget of building shelters as specified in Article 9 of the LCHT both domestically and abroad into the package of the Minister of Justice and Home Affairs (MOJHA) from the Sub-Council to combat TIP and to provide professional management to the MOJHA. When building shelter housings, to comply with the “General requirements on services of temporary shelters for victims,” MNS 6040:2019, approved by Order C/07 of the Mongolian Agency for Standard Metrology, dated February 28, 2019, and “General requirements on provision of social services for human trafficking victims,” MNS 6418:2013, by Resolution No. 58 of the National Council for Standardization, dated December 19, 2013.
9. To amend the “Procedure to use safety measures when placing witnesses and victims in safe, temporary shelters,” approved by Order A/73 of the Minister of Justice and Home Affairs, dated April 8, 2021, to include people whose rights, freedoms, and interests were violated because of human trafficking by adding “human trafficking” after “regardless of whether a criminal case was constituted or a victim was identified, domestic and sexual violence, child abuse...” in Article 4.2 of “General requirements on services of temporary shelters for victims” MNS 6040:2019, approved by Order C/07 of the Mongolian Agency for Standard Metrology, dated February 28, 2019.
10. To submit a budget proposal from the Sub-Council to the Minister of Justice and Home Affairs and Minister of Foreign Affairs to build standard shelters at diplomatic and consular missions in foreign countries where many Mongolians live and where they could be potential TIP victims towards ensuring the implementation of “The procedure for providing victims abroad with temporary accommodation and food, issuing foreign passports or equivalent documents, and repatriation by diplomatic representatives and consular offices representing Mongolia in foreign countries,” numbered A/91, approved by the minister of Foreign Affairs, dated November 15, 2013.

11. To submit a proposal to shift the duty of “Marshal’s Service” to a government body from the Sub-Council to the Minister of Labor and Social Protection since the stated authority had been dissolved as specified in Articles 1.3 and 3.6 of the “Procedure on Providing Victims with Jobs and Vocational Training,” numbered A/135, approved by the Minister of Labor, dated July 9, 2015.”
12. To amend terminologies of “health rehabilitation” in line with relevant laws, which makes it hard to implement the procedure on “health rehabilitation treatment” to be approved by the state administrative body in charge of health issues as specified in Article 12.1.1 of the LCHT and collaborate with the state administrative body in charge of health issues for the Sub-Council to approve and implement the procedure. In the long run, to organize rehabilitation treatment for TIP victims following the procedure and to record the relevant registration.
13. To submit a proposal from the Sub-Council to the state administrative body in charge of health issues to add a detailed registration on “victims of trafficking in persons” in their registration of victims at all levels of health organizations.
14. To take actions to incorporate content on concepts of trafficking in persons and how to prevent, identify, and suppress it in curricula of educational insitutions of all levels.
15. To organize advanced training for employees and specialists of organizations with the function of combating and preventing human trafficking as specified in Article 6.6.10 of the LCHT by providing information for government organizations, officials, and specialists through training and promotion and organizing advocacy activities, promotion, and training for citizens on combatting, preventing, and suppressing TIP. When implementing it, develop a proposal to reflect the necessary funds in the year-on-year state budget for its implementation as stated in Article 6.6.7 of the law.
16. To amend Article 6 of the LCHT to add Article 6.7 stating, “A Multi-Disciplinary Task Force representing governmental and non-governmental organizations working to combat trafficking in persons can serve as an auxiliary role to assist Sub-Council’s work.” To regulate it in a way that operational costs for the task force should be funded from the operational costs of the Sub-Council.
17. To take actions to include budgets necessary for issues that have not been resolved due to lack of budget and funding discovered during this research into the state budget based on its powers to develop a proposal to reflect the necessary funds in the state budget for the implementation of laws and programs on combating human trafficking as specified in Article 6.6.7 of the LCHT.
18. To modify “government” into “cabinet member in charge of legal affairs” when amending Article 9.4 of the LCHT, which states, “The government



shall approve the structure, organization and working procedures of shelter housing.” Similarly, modify “government” into “cabinet member in charge of legal affairs” when amending Article 9.5 of the LCHT, which states, “Under the decision of the government, non-governmental organizations may be responsible for the operation of the shelter housing.”

19. To establish a trafficking in persons resource and counseling center.
20. To submit a proposal to add “Article 13.1 of the Criminal Code (Human Trafficking)” as section 2.1.6 in Appendix 1 of Joint Orders A/268 and A/275 by the Minister of Justice and Home Affairs and Minister of Health, dated July 31, 2023, to get emotional damage caused to TIP victims resolved at the criminal proceedings stage in court from the Sub-Council to the Minister of Justice and Home Affairs and Minister of Health.
21. To organize meetings and discussion sessions with the Judicial General Council towards having common understanding and resolving issues that are not enforced in practice even though it is possible to solve issues at the level of legal regulations in terms of claiming damage borne at stages of investigation, prosecutorial supervision, and court proceedings, counting relevant facts and documents as evidence in court, and having courts being able to assess them.
22. To form and operate a working group fully engaging all representation of governmental and non-governmental organizations participating and implementing the task to combat trafficking in persons to approve currently unapproved procedures and to eliminate conflicts and duplications of approved procedures because combatting TIP in a unified, comprehensive way would achieve its goals.

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## NOTES

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