

# International Definition of Trafficking

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# Agenda

1. Article 3 of the UN Protocol on Trafficking in Persons

2. Question of Intent

3. Improper Means

4. The Situation of the Victim

# Article 3

- *Article 3. Use of terms*
- For the purposes of this Protocol:
- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons,
- by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
- Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

## Article 3 (II)

- *(b)* The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph *(a)* of this article shall be irrelevant where any of the means set forth in subparagraph *(a)* have been used;

# Article 3 (III)

- *(c)* The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph *(a)* of this article;
- *(d)* “Child” shall mean any person under eighteen years of age.

## Direct intent in relation to subsequent exploitation required?

- Trafficking – a multilayered offence
- All links in the trafficking chain should be labeled as trafficking and criminalized
- Is that possible if we adhere to a strict interpretation of intent?
- Is *knowing intent* the answer?

Improper means utilized by the offender

- Abusing someone's vulnerable position – a subjective notion
- Pertains to the circumstances of the victim
- For example: no other viable alternative than to consent to prostitution, forced labour etc.
- Focus should be on subsequent exploitation

# The concept of consent

- What constitutes free choice?
- What is force?
- Lack of knowledge on the situation in countries of origin
- More research on s.c push factors needed
- Include the perspective of the victim in legal studies on trafficking



Thank you for your  
attention!