

Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective

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Introduction

I believe that legislation can be one of the primary sources of social change and social regulation. Legislative measures are some of the most effective means of combating a serious problem such as trafficking in persons.

This booklet is designed to provide the reader with a basic understanding of the appropriate legal responses to trafficking in persons in accordance with international law and comparative legislation. The booklet offers a graphic presentation of the main legislative instruments in simple and non-technical language, but without compromising any legal terms.

I argue that five basic elements should be incorporated into any antitrafficking legislation. First, laws must recognize all forms of trafficking as specific crimes that are subject to serious sanctions. Second, these laws must identify the trafficked person as a victim of a crime who is entitled to basic human rights, while taking into consideration not only the victim already identified as such, but also the derivative victim, the vulnerable victim, the potential victim, and the presumed victim. Third, countries should adopt a comprehensive Five P's approach to combating trafficking in persons, including prevention, protection, provision, prosecution, and participation. Fourth, laws must target all actors in the trafficking enterprise, including the natural person, the legal person, the private person, and the public person. Finally, countries should acknowledge trafficking in persons as a transnational crime that warrants transnational policies. These should especially cover extraterritoriality, extradition, and the exchange of information.

This booklet explains these five basic elements as based upon the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime as well as the Council of Europe Convention on Action against Trafficking in Human Beings. The United States Trafficking Victims Protection Act is included to provide a comparative model in combating trafficking in persons. Trafficking-related statutes under international law and domestic legislation are also considered.

I would like to thank Marina Elefante, Anna Koppel, and George Sadek for conducting extensive background research and meticulously editing the document. I am also grateful to Kashka Kisztelinska of KMK Studio for designing this booklet.

I hope you find this information helpful.

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A Victim-Centered Approach to Trafficking in Persons: Building on International Legal Principles

1. Definitions of Forms of Trafficking under International Law

Trafficking in Persons

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 exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (*United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime—2000*)

Slavery

The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. (*Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention —1926*)

Enslavement

The exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children. (*Rome Statute of the International Criminal Court—2002*)

Practices Similar to Slavery

The act of conveying or attempting to convey slaves from one country to another by whatever means of transport, or of being accessory thereto; the act of mutilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason, or of being accessory thereto. (*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery—1956*)

Servitude

The status or condition of dependency of a person who is unlawfully compelled or coerced by another to render any service to the same person or to others and who has no reasonable alternative but to perform the service. Servitude shall include domestic service and debt bondage. (*Early draft of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children—2000*)

Slave Trade

All acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves. (*Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention—1926*)

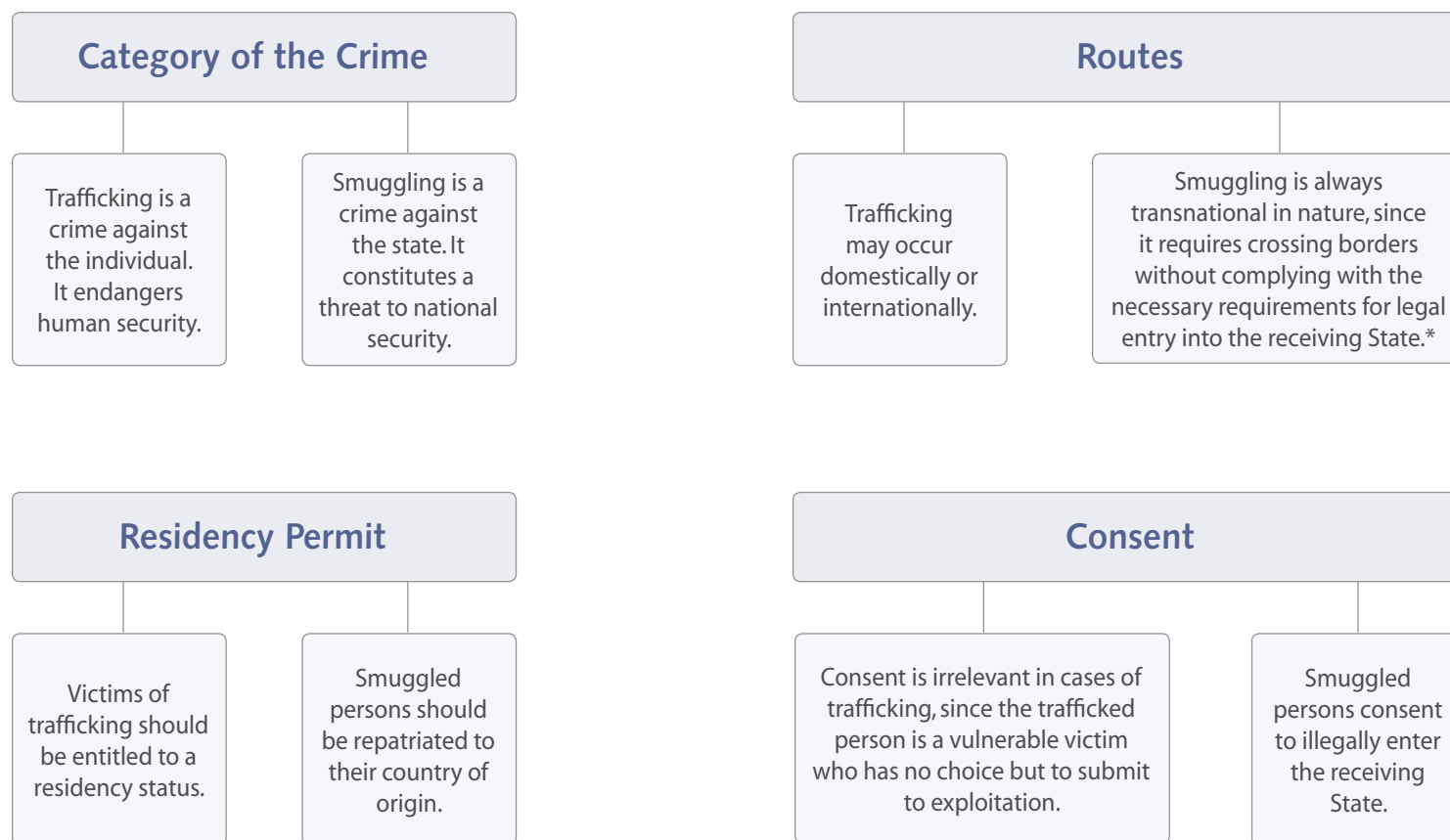
Debt Bondage

The status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined. (*Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery—1956*)

Forced Labor

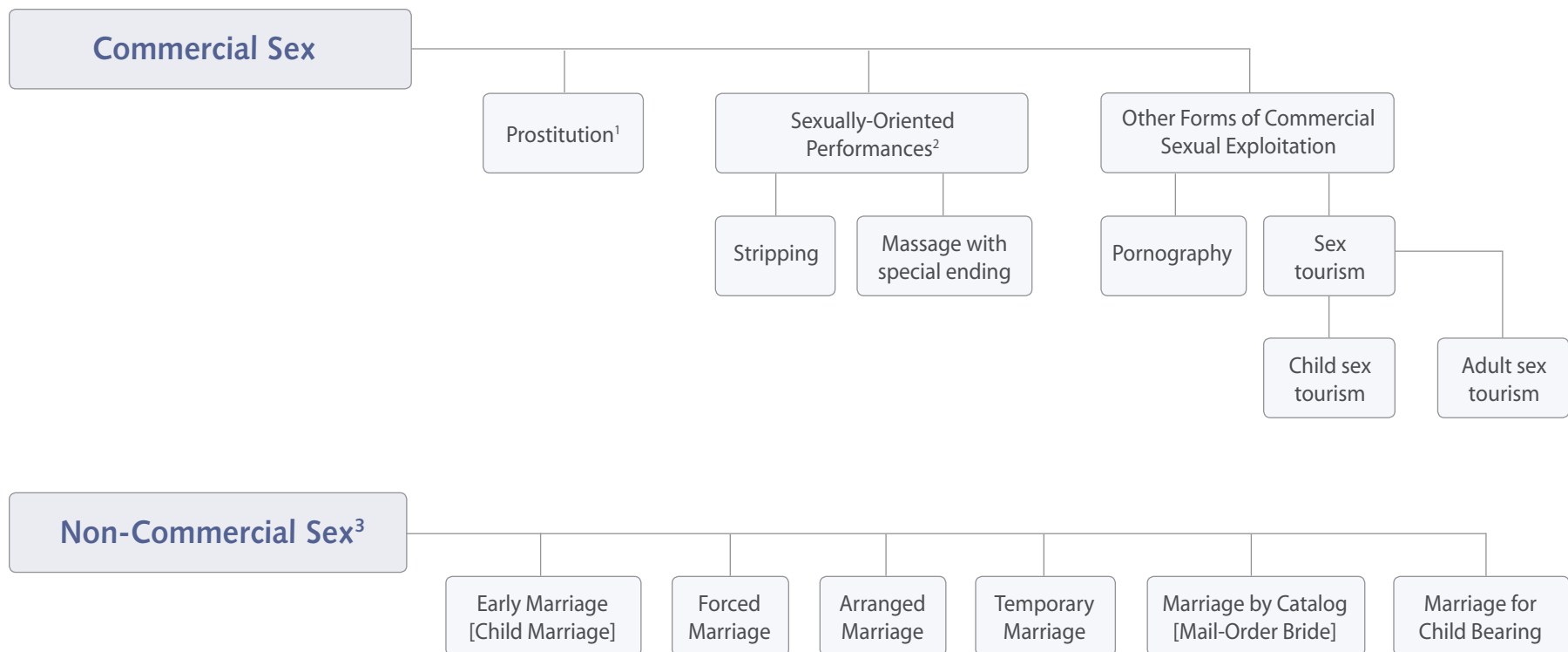
All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. (*International Labour Organisation Convention concerning Forced or Compulsory Labour—1932*)

2. Trafficking in Persons and Smuggling of Migrants



* United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transitional Organized Crime, 2000, (Article 3).

3. Forms of Sex Trafficking*



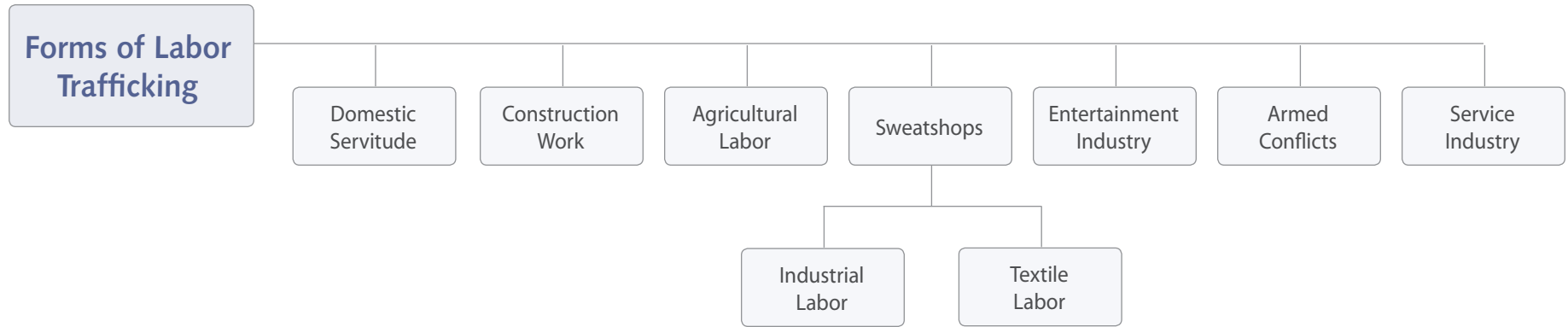
* These forms of sex trafficking reflect the opinion of the author, which may not necessarily coincide with the prevailing interpretation of the relevant international law or comparative legislation.

¹ Trafficking for the purpose of prostitution is a form of trafficking which is distinguished from trafficking for exploitation of prostitution of others.

² Although sexually-oriented establishments may be recognized as providing legitimate services, they are frequently used as a front for prostitution and other forms of sexual exploitation.

³ Although marriage is a legal institution, it can become a form of trafficking in any of these forms if it involves an element of exploitation.

4. Forms of Labor Trafficking



5. Forms of Trafficking in Children

Children May Be Trafficked for the Purpose of:

Prostitution

Begging

Pornography

Adoption*

Sex Tourism

Removal of Organs

Forced Labor

Drug Distribution

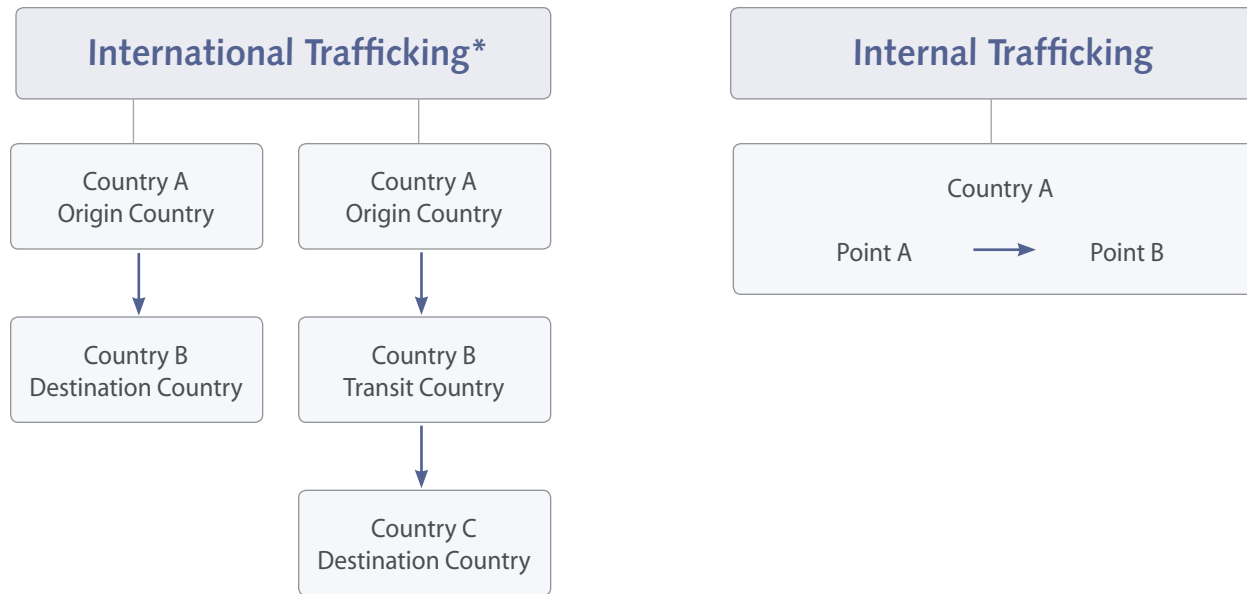
Domestic Service

Armed Conflict

Criminal Activities

*Adoption may be a form of trafficking only if the child is exploited. In the absence of exploitation, adoption does not constitute a form of trafficking even if the child is being sold, although adoption in such a case would be illegal.

6. Routes of Trafficking in Persons



* International trafficking is most commonly committed in more than one state. However, trafficking in persons is considered a transnational crime also if it is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; if it is committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; and if it is committed in one state but has substantial effects in another state (United Nations Convention against Transnational Organized Crime , art. 3(2)).

7. Victims of Trafficking Bill of Rights*

Victims of Trafficking in Persons Are to Be Treated with Dignity, Fairness, Compassion and Respect for Human Rights

Victims Are Entitled to:

■ The Right to Safety

■ The Right to Compensation for Damages

■ The Right to Privacy

■ The Right to Medical Assistance

■ The Right to Information

■ The Right to Social Assistance

■ The Right to Legal Representation

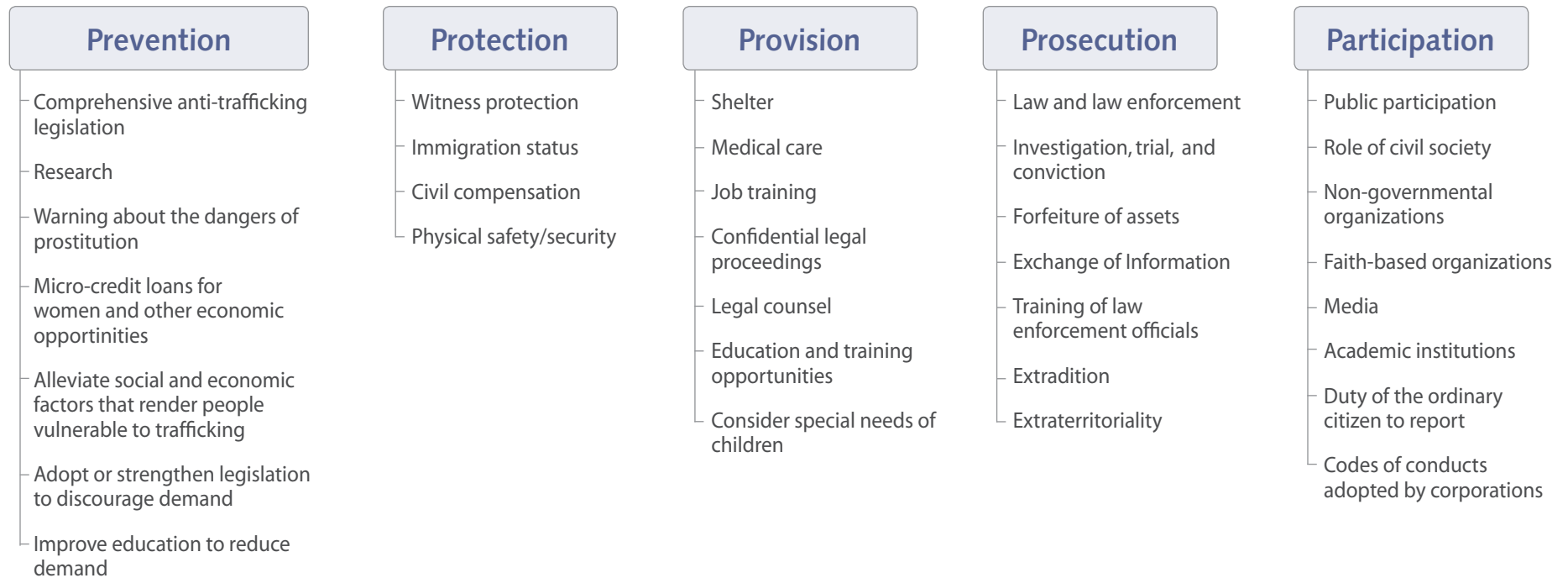
■ The Right to Seek Residence

■ The Right to Be Heard in Court

■ The Right to Return

* The Bill of Rights is based on remarks presented by the Executive Director of The Protection Project, Mohamed Mattar, at the International Conference on "21st Century Slavery—The Human Rights Dimension to Trafficking in Human Beings" held in Rome, Italy on May 15-16, 2002.

8. The Five Ps*



* The outlined measures are not exhaustive, but rather illustrative of the most important measures that must be taken to combat trafficking in persons.

9. The Five Vs

Victim

A victim of a crime is defined as a person who has "suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his/her fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights."

[Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Art. B(18)]

Derivative Victim

"The term "victim" includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered to assist victims in distress or to prevent victimization".

[Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Article A(2)]

Vulnerable Victim

A vulnerable victim is defined as a person who "is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct".

[United States Federal Sentencing Guidelines]

A vulnerable victim is susceptible to being trafficked.

Potential Victim

A person who is part of a risk group and is vulnerable to becoming a victim of trafficking. Preventive measures must be taken so that the potential victim does not become a real victim.

Presumed Victim

A person who has already been trafficked but has not been identified as a victim of trafficking. Such a person falls outside the protection of the legal system.

10. The Three Rs*

Rescue

- Identification of victims of trafficking
- Raid operations
- Repatriation

Rehabilitation

- Restoration
- Ensuring availability of shelters and housing
- Providing access to psychological care
- Providing access to medical care
- Providing access to training and employment opportunities

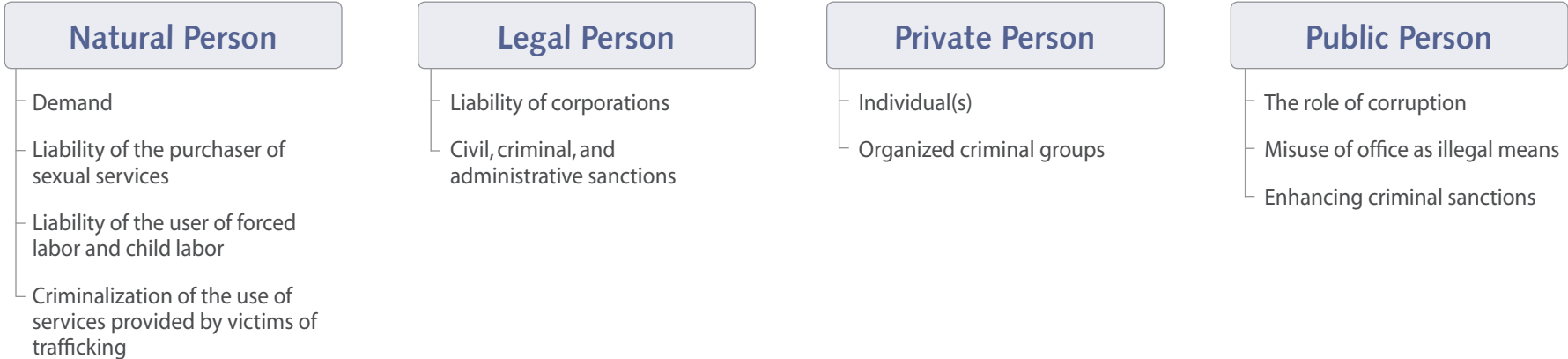
Reintegration

- Addressing stigma of prostitution
- Addressing cultural vulnerabilities
- Taking necessary measures to ensure that a victim is not re-victimized

*The outlined measures are not exhaustive, but rather illustrative of the most important measures that must be taken to combat trafficking in persons.

11. The Four Ps

The Application of the Theory of Persons to Trafficking in Persons



12. The Three EXes*

Exchange of Information

- Between countries of origin, transit, and destination
- Mutual assistance in criminal matters
- Information gathering, information sharing, and information dissemination
- Bilateral treaties
- Regional conventions
- Harmonization of standards and measures

Extradition

- The recognition of trafficking in persons as an extraditable offense
- Extradition treaties
- International conventions as basis for extraditions

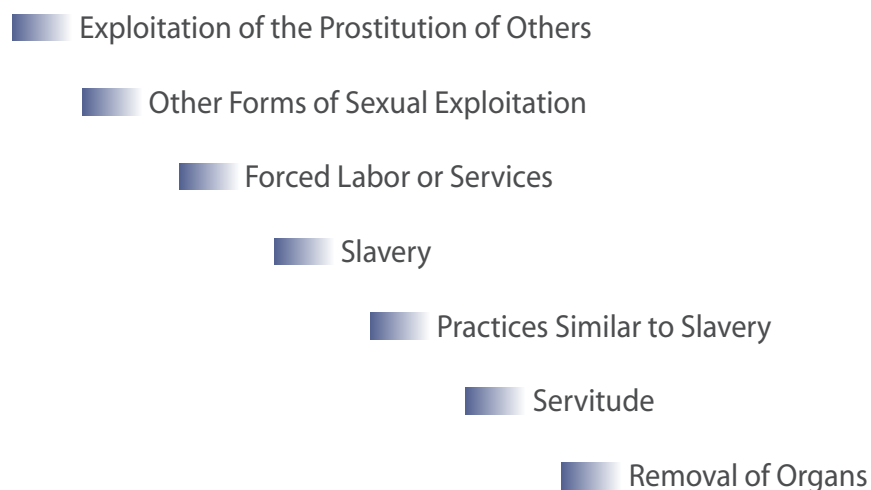
Extraterritoriality

- The application of domestic law regardless of the country where the act is committed
- Peacekeeping missions
- Military jurisdiction
- Child sex tourism
- Beyond extraterritoriality: the principle of universality
- Trafficking in persons as a crime against humanity

*The Three EXs approach recognizes trafficking in persons as a transnational crime that requires transnational measures.

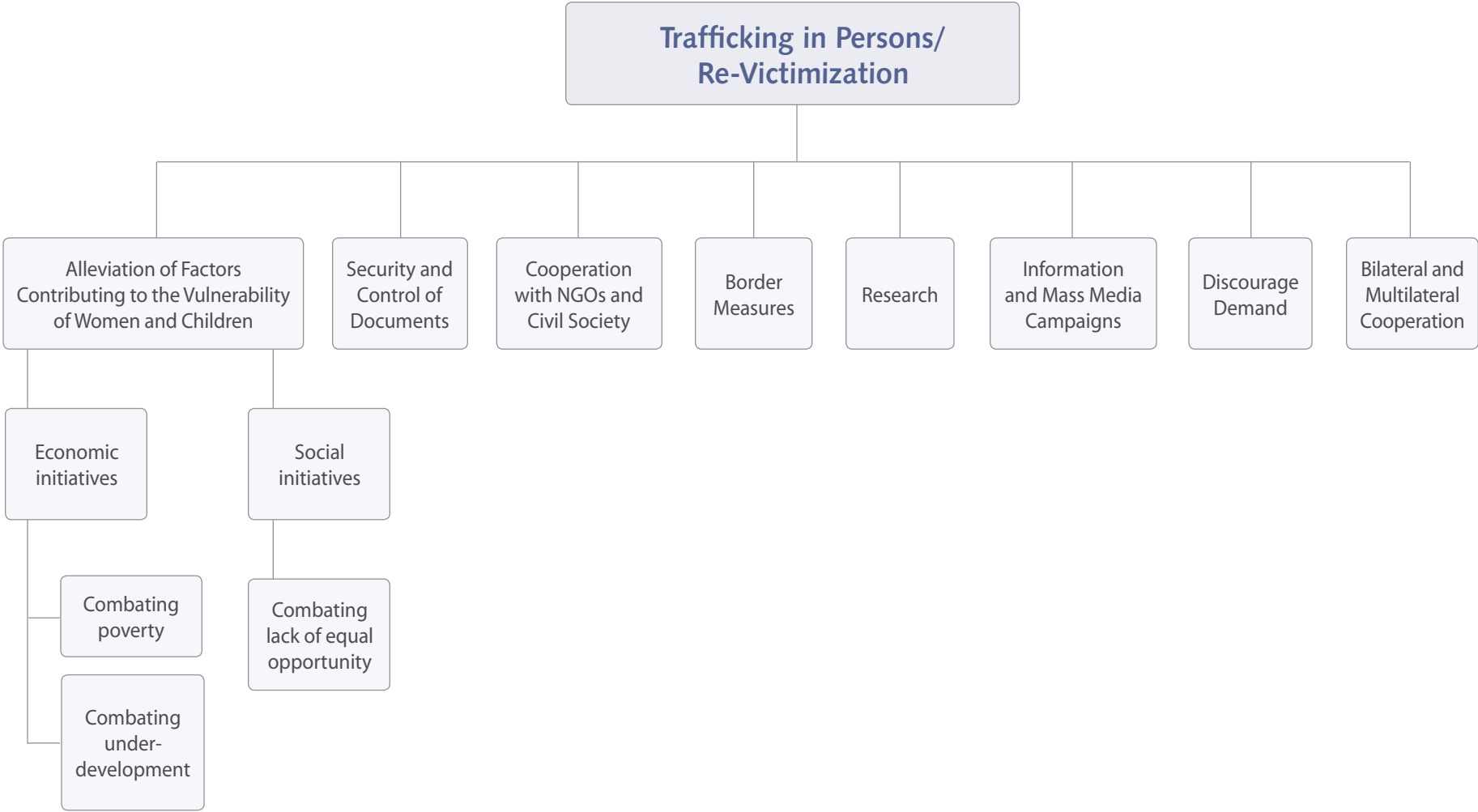
Trafficking in Persons under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

13. Forms of Trafficking in Persons*



* These are the recognized forms of trafficking in accordance with Article 3(a) of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Article 3 states that: "Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of 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". However, it must be noted that these forms are mentioned "at a minimum." A legal system may recognize other forms of trafficking in persons.

14. Prevention



United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (Articles 9-15).

16. Trafficking-Related Provisions under the United Nations Convention against Transnational Organized Crime

Laundering of Proceeds of Crime [Art. 6]

- Conversion or transfer of property, for the purpose of concealing or disguising illicit origin, concealment, disguise of true nature, source, location, disposition, movement or ownership of rights, with the knowledge that property is proceeds of crime
- Acquisition, possession or use of property, with the knowledge that property is proceeds of crime
- Participation in, association with or conspiracy to commit, and attempts to commit any of the offences established by this convention
- Criminalization of predicate offences committed within and outside of the jurisdiction of the State Party in question, but only when relevant conduct is a criminal offence under law of both states

Money Laundering [Art. 7]

- Domestic regulatory and supervisory regime for banks and financial institutions: customer identification, record-keeping and reporting of suspicious transactions
- Cooperation and exchange of information at national and international levels
- Measures to detect and monitor movement of cash and negotiable instruments across borders
- Global, regional, sub-regional and bilateral cooperation among judicial and law enforcement authorities

Disposal of Confiscated Proceeds of Crime or Property [Art. 14]

- Give priority consideration to returning confiscated proceeds of crime or property to the requesting State so that it can give compensation to victims or return such proceeds to their legitimate owners.

Corruption [Art. 8 and Art. 9]

- Promising, offering or giving an undue advantage to a public official
- Solicitation or acceptance by a public official of an undue advantage
- Effective action by authorities in prevention, detection and punishment of the corruption of public officials
- Legislative, administrative or other measures to promote integrity and to prevent, detect and punish the corruption of public officials

Extradition [Art. 16]

- If a State Party that makes extradition conditional on existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition.

Liability of Legal Persons [Art. 10]

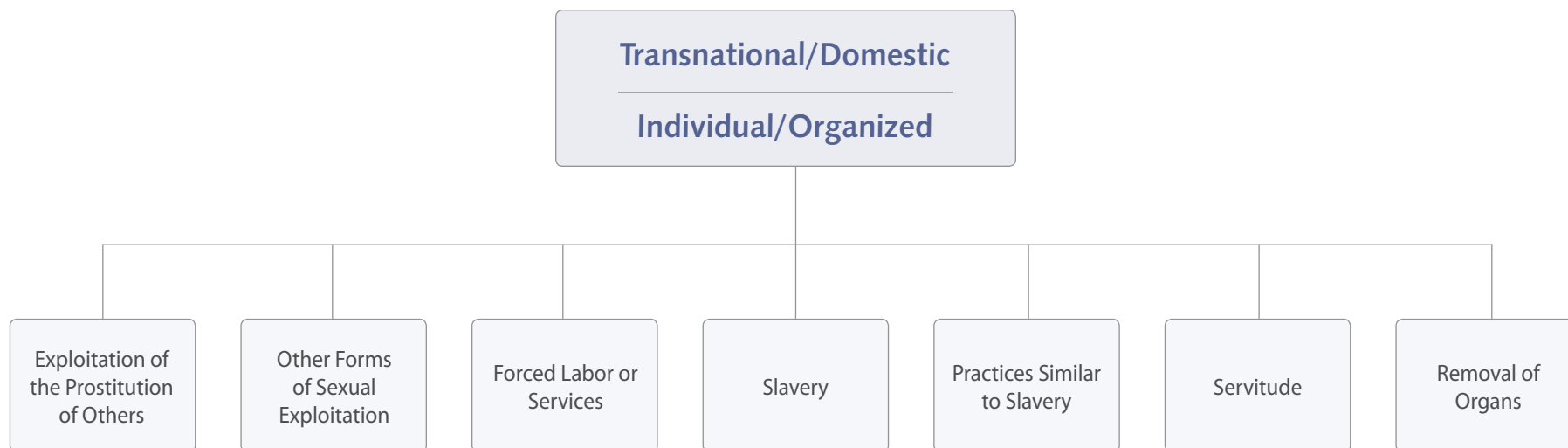
- Criminal, civil or administrative
- Without prejudice to criminal liability of the natural persons

Protection of Witnesses [Art. 24]

- Protection from potential retaliation or intimidation for witnesses including:
 - Physical protection
 - Relocation of witnesses and non-disclosure of information concerning identity
 - Ensuring safety of the witness, such as permitting testimony to be given through communications technology

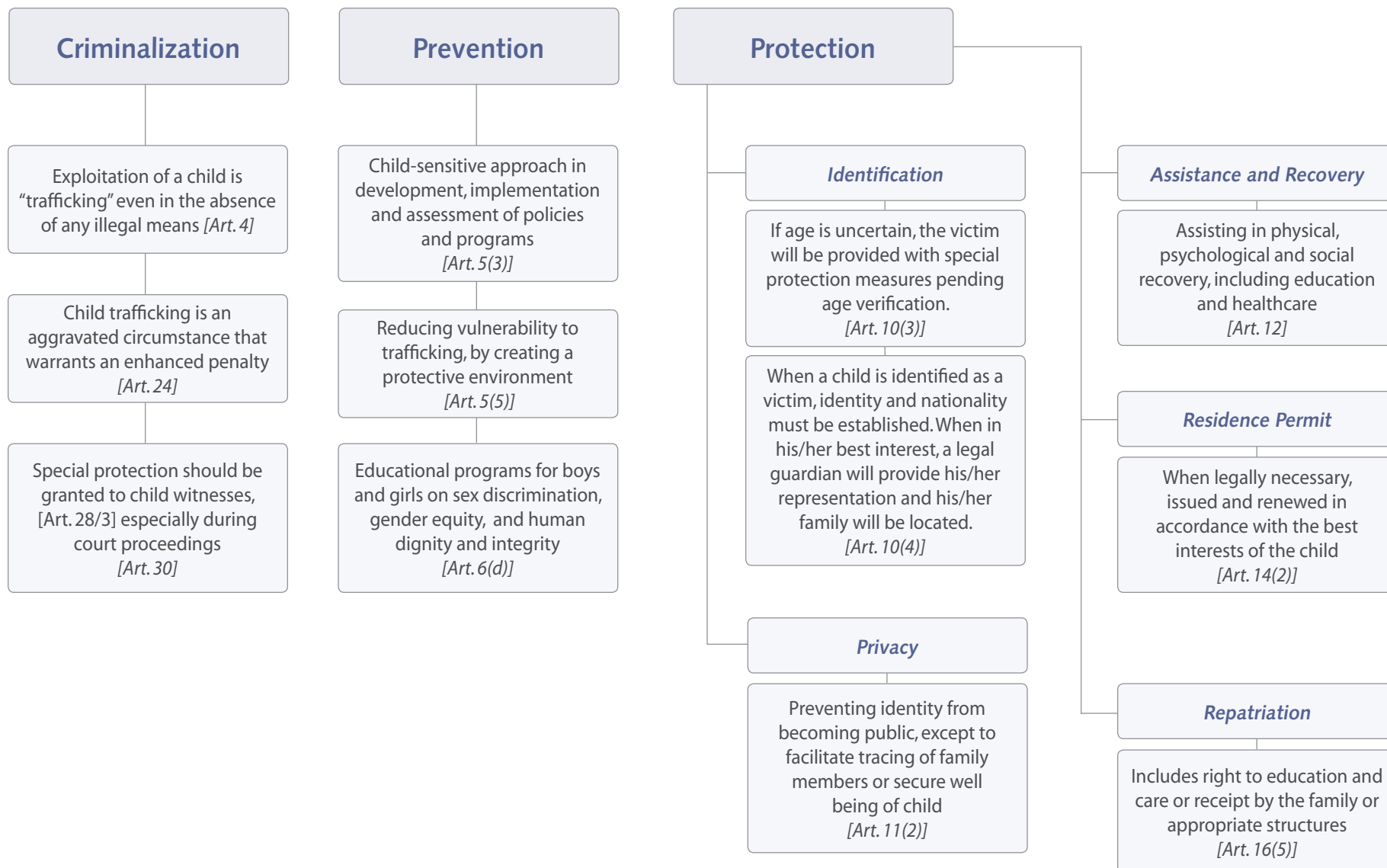
Trafficking in Persons under the Council of Europe Convention on Action against Trafficking in Human Beings

17. Forms of Trafficking in Human Beings*



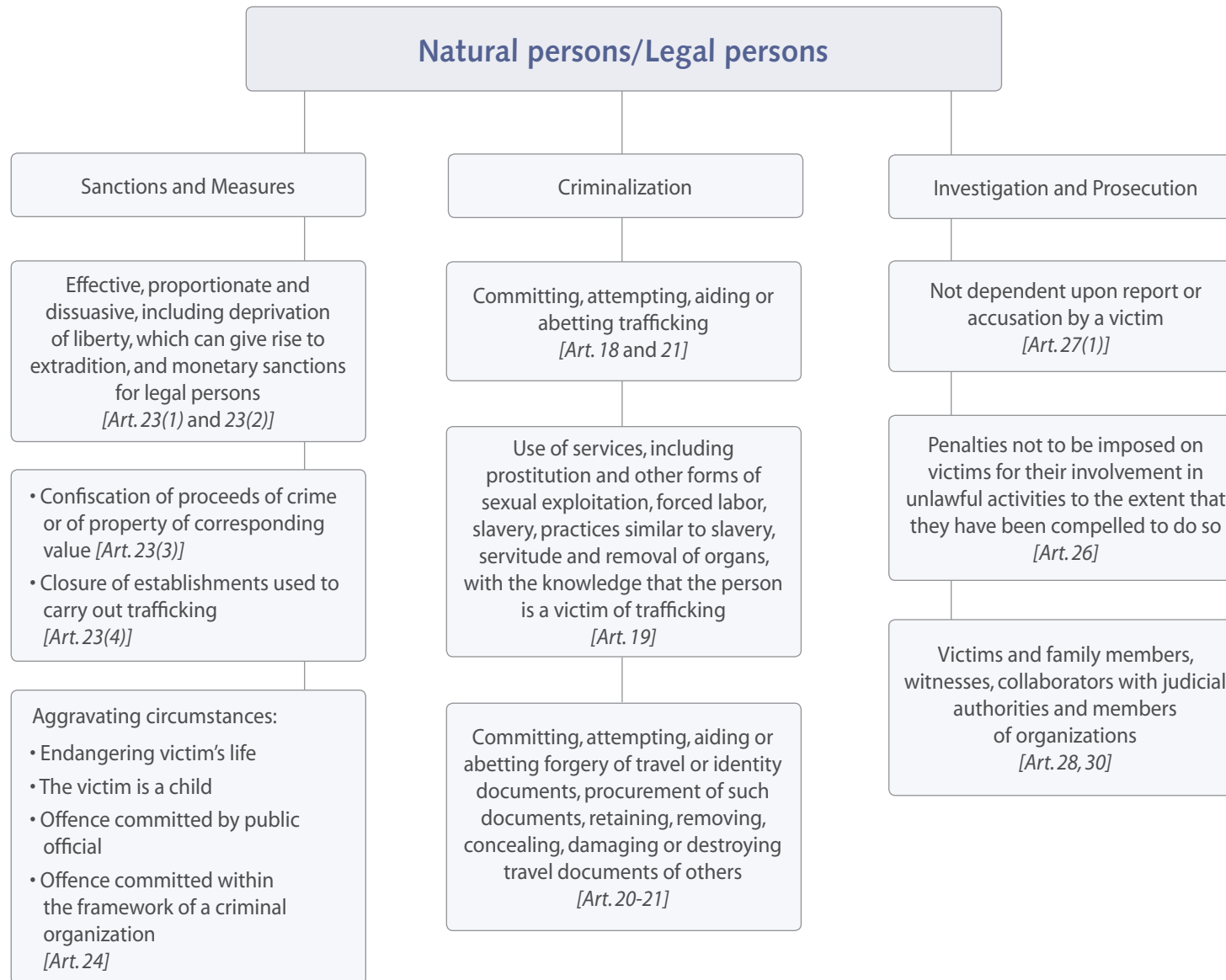
* These are the recognized forms of trafficking in accordance with Article 4(a) of the Council of Europe Convention on Action against Trafficking in Human Beings of 2005. Article 4(a) states that: "Trafficking in human beings shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of 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." However, it must be noted that these forms are mentioned "at a minimum." A legal system may recognize other forms of trafficking in persons.

18. Trafficking in Children

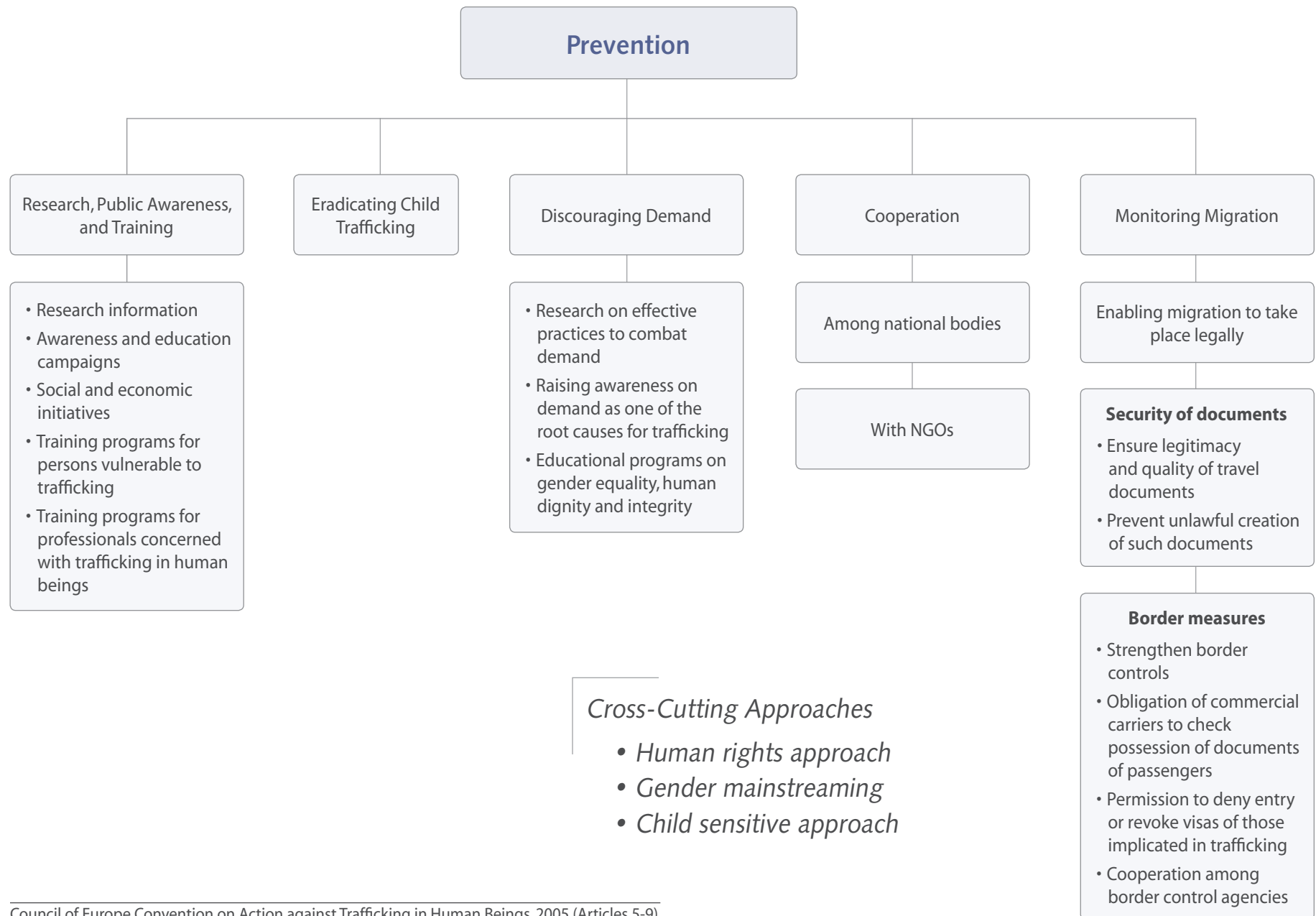


Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

19. Criminalization



20. Prevention



Council of Europe Convention on Action against Trafficking in Human Beings, 2005 (Articles 5-9).

21. Protection of Victims

Identification of Victims

- Identification of victims shall be performed by well-trained and qualified personnel
- Identification procedures shall take into account the special situation of women and child victims
- Victims shall not be removed until identification is complete

Safety and Security of Persons

- Protection of private life and identity of victims
- Access to protective services and integration
 - Appropriate and secure accommodation
 - Access to emergency medical treatment
 - Psychological and material assistance
 - Access to the labor market and vocational training and education

Access to Justice

- Counseling and information regarding victim's legal rights and services
- Access to information on relevant judicial and administrative proceedings
- Legal assistance and free legal aid
- Compensation from the perpetrators and a fund for victims of trafficking

Residency Status

- Recovery and reflection period to escape intimidation by traffickers and make an informed decision on cooperating with competent authorities
- Renewable residence permit either due to victims' personal situation or so that victims may cooperate with competent authorities in investigation or legal proceedings

or

Repatriation and Reintegration

- Repatriation without unreasonable delay
- Reintegration into the education system and into the labor market

22. Participation



**Trafficking in Persons under the United States
Trafficking Victims Protection Act of 2000
(TVPA), as Amended in 2003 and 2005**

23. Definitions

Severe Forms of Trafficking in Persons

- A. Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- B. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. *[Sec. 103(8)]*

Sex Trafficking

The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act *[Sec. 103(9)]*

Commercial Sex Act

Any sex act on account of which anything of value is given to or received by any person *[Sec. 103(3)]*

Involuntary Servitude

- A condition of servitude induced by means of:
 - A. Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
 - B. The abuse or threatened abuse of the legal process *[Sec. 103(5)]*

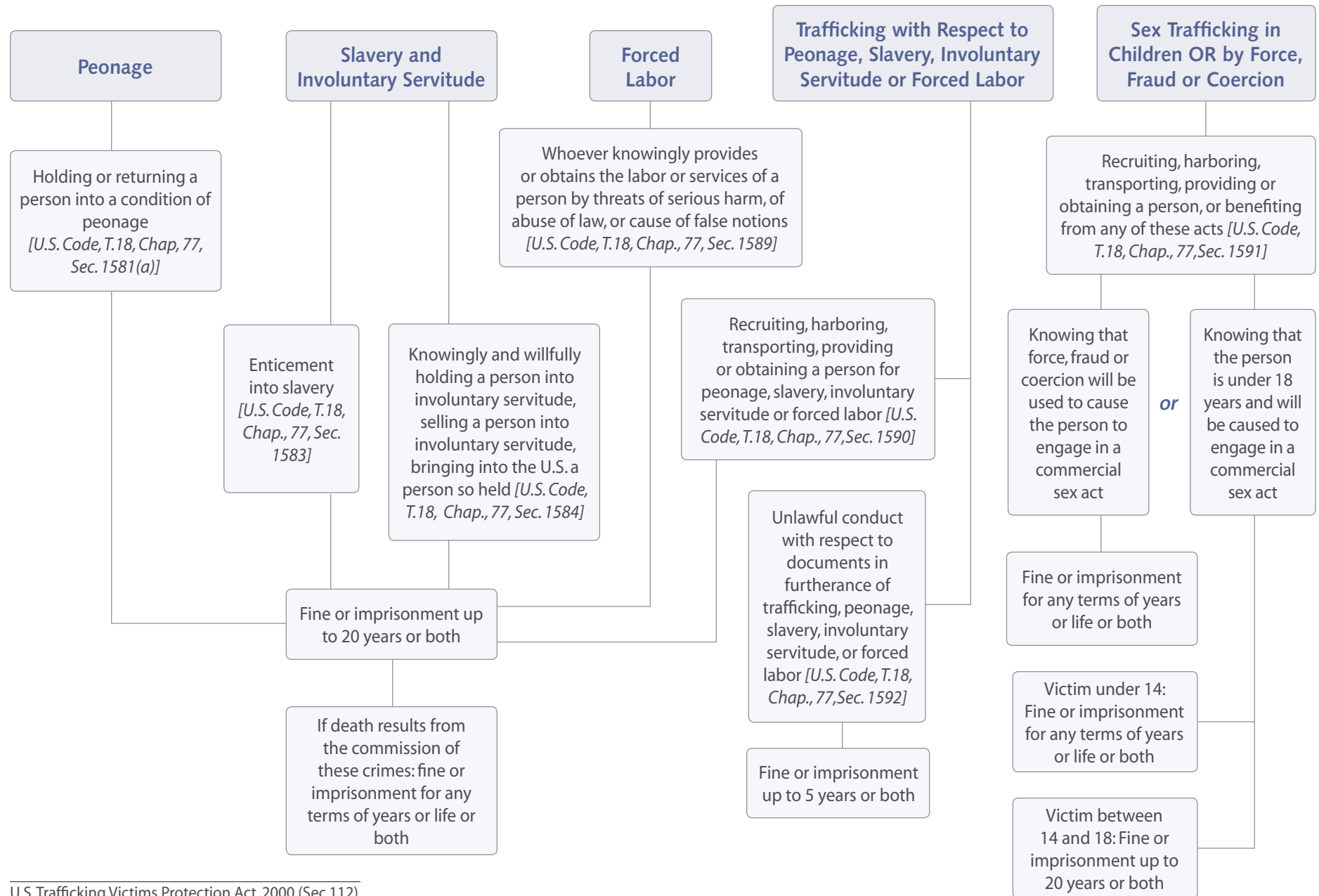
Debt Bondage

The status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. *[Sec. 103(4)]*

Coercion

- A. Threats of serious harm to or physical restraint against any person;
- B. Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- C. The abuse or threatened abuse of the legal process. *[Sec. 103(2)]*

24. Crimes and Punishments



U.S. Trafficking Victims Protection Act, 2000 (Sec.112).

25. Benefits Granted to Victims of Trafficking



U.S. Trafficking Victims Protection Act, 2000.

* Provided by the Trafficking Victims Protection Reauthorization Act, 2003.

26. Prevention of Trafficking

Economic Alternatives to Prevent and Deter Trafficking

- Micro-credit lending and training programs
- Promoting women's participation in economic decision-making
- Programs to keep children in school
- Educational curricula on the dangers of trafficking
- Grants to NGOs to advance women's role and capacities in their countries

Sec. 106 (a)

Termination of Grants and Contracts

- Termination of grants, contracts or cooperative agreements if the grantee or contractor:
 - Engages in severe forms of trafficking in persons
 - Has procured a commercial sex act
 - Uses forced labor in performance of grant, contract, or agreement

*Sec. 106 (g)(1)**

Public Awareness and Information

- Increasing public awareness on dangers of trafficking and protections available for victims

Sec. 106 (b)

Border Interdiction

- Grants to NGOs providing shelters at border crossings and helping survivors to educate and train border guards to identify traffickers and victims
- Monitoring implementation of border interdictions programs

*Sec. 106 (c)**

Prevention in Post-Conflict and Humanitarian Emergencies

- Incorporation of anti-trafficking measures for vulnerable populations into post-conflict and humanitarian assistance programs

*Sec. 106(h)***

International Media

- Supporting the production of TV and radio programs to inform vulnerable populations about the dangers of trafficking and increase awareness of trafficking

*Sec. 106 (d)**

Prevention of Domestic Trafficking

- Program to reduce trafficking and demand for commercial sex acts, including:
 - Research, statistical review and analysis of incidents of trafficking and commercial sex acts in the U.S.
 - Trafficking conference addressing severe forms of trafficking and commercial sex acts in the U.S.

TVPRA 2005 Sec. 201

Combating International Sex Tourism

- Development and dissemination of materials alerting travelers that child sex tourism:
 - is illegal
 - will be prosecuted
 - presents dangers to those involved

*Sec. 106 (e)**

Enhancing State and Local Efforts to Combat Trafficking

- Grant program for law enforcement:
 - To investigate and prosecute acts of severe forms of trafficking in persons
 - To investigate and prosecute customers
 - To educate customers and perspective customers
 - To educate and train law enforcement personnel

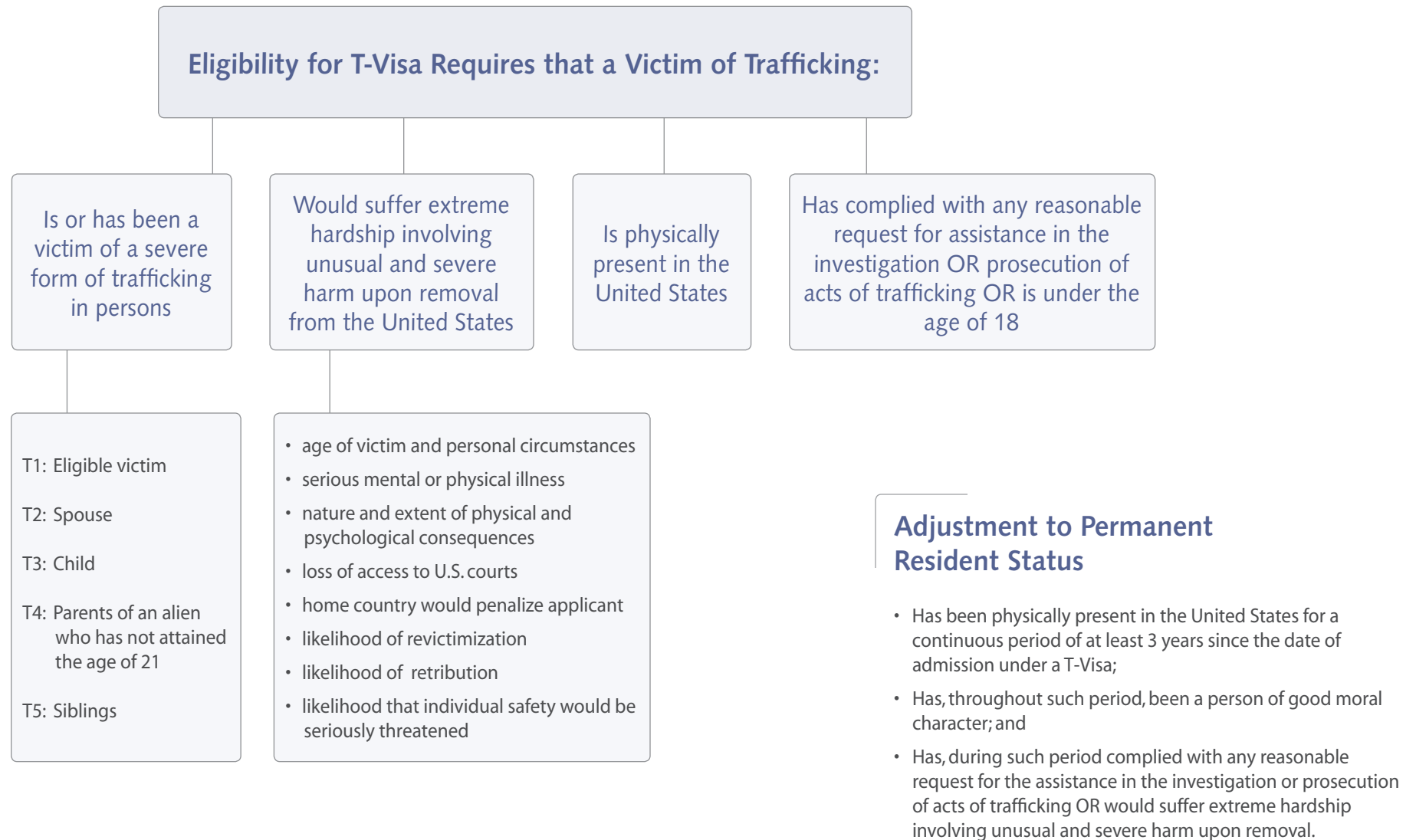
TVPRA 2005 Sec. 204

U.S. Trafficking Victims Protection Act, 2000.

*As amended by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003.

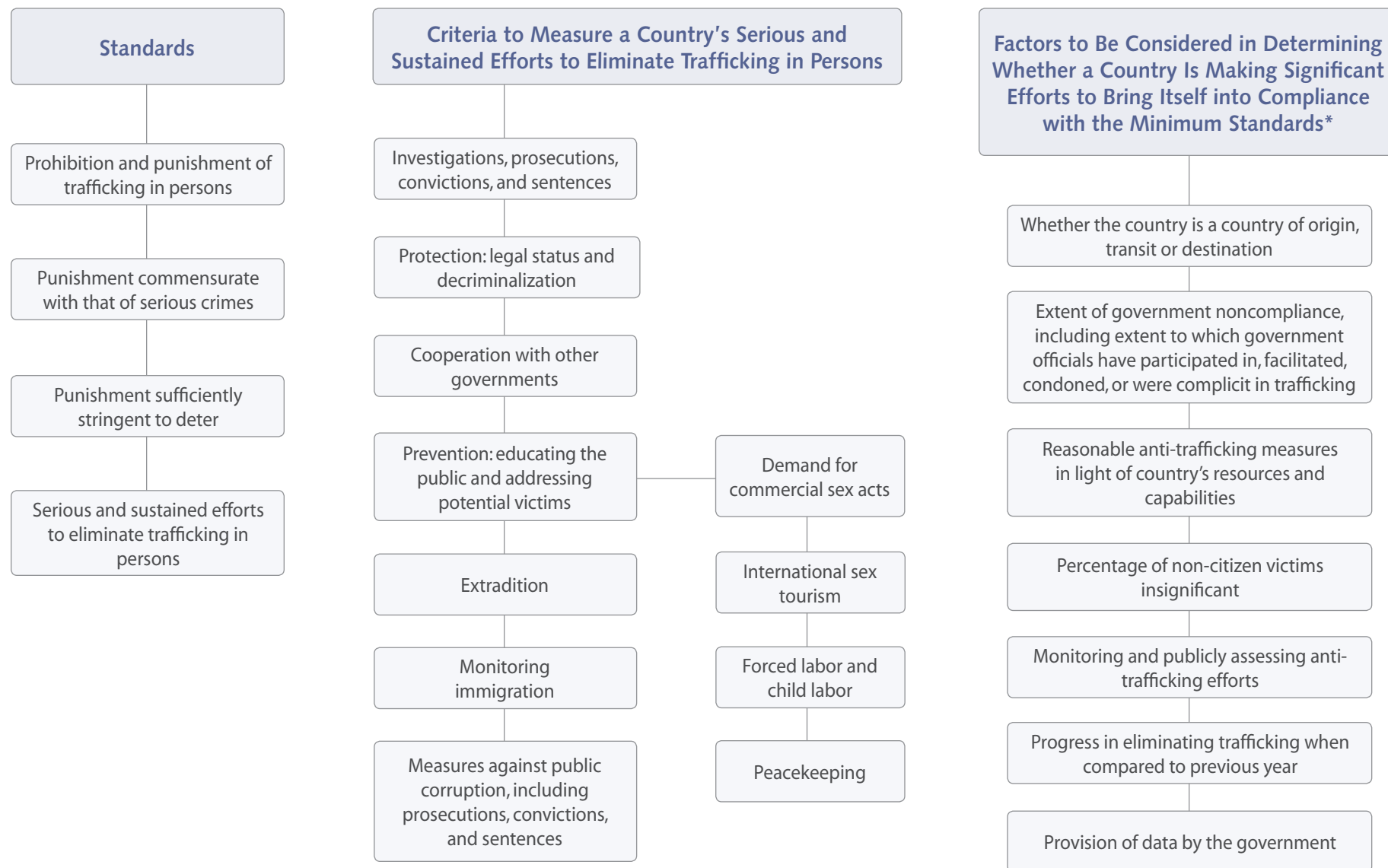
**As amended by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005.

27. T-Visa Requirements



U.S. Trafficking Victims Protection Act, 2000, (Section 107).

28. Minimum Standards for the Elimination of Trafficking in Persons

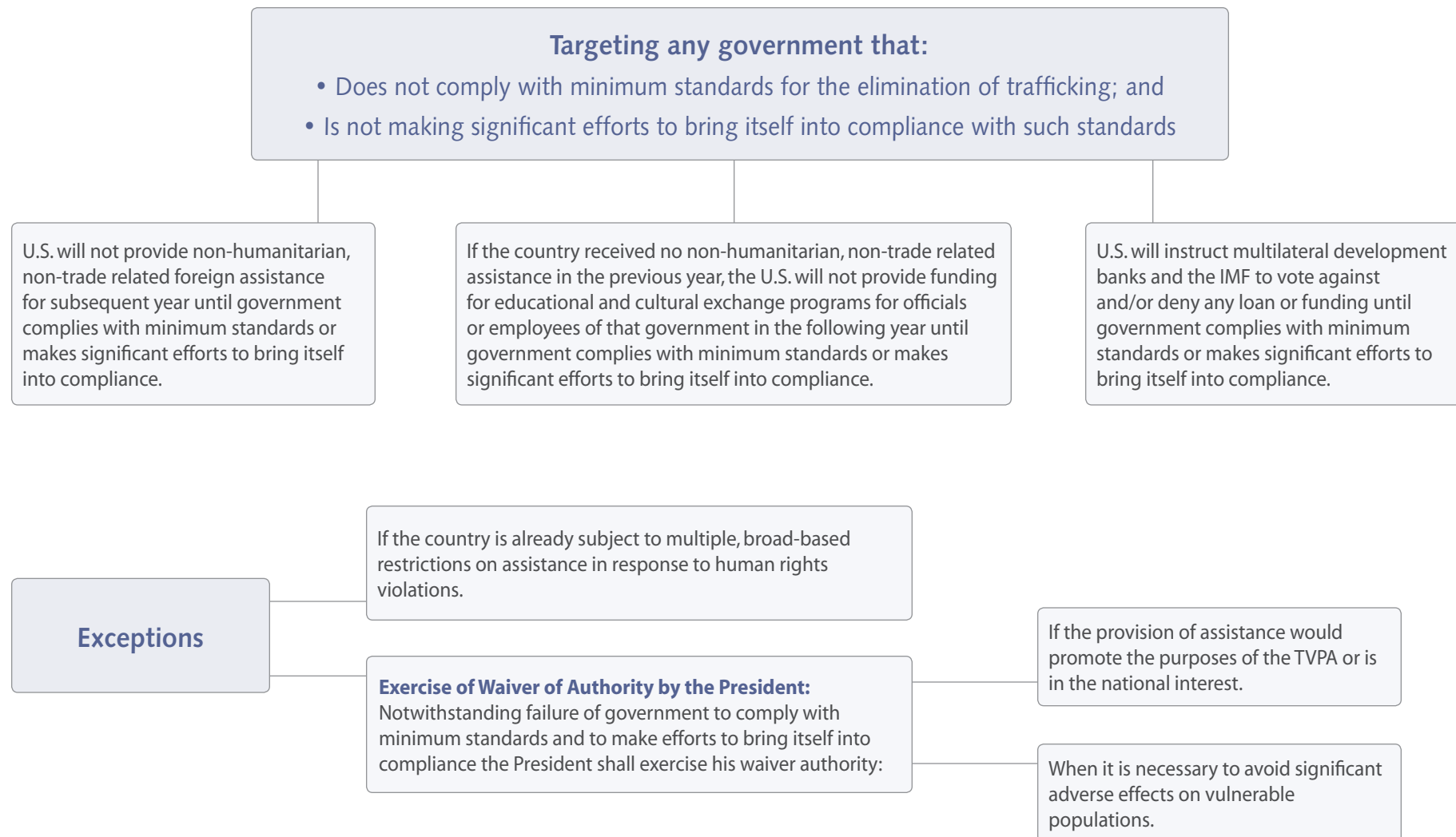


U.S. Trafficking Victims Protection Act, 2000 (Sections 108 and 110).

*This chart is based on a distinction between criteria and factors, which the TVPA sometimes confuses.

29. Actions against Governments Failing to Meet Minimum Standards

Withholding of Assistance by Presidential Determination



U.S. Trafficking Victims Protection Act, 2000, (Section 110).

30. Interagency Task Force to Monitor and Combat Trafficking

Members

- Secretary of State
- Administrator of USAID
- Attorney General
- Secretary of Labor
- Secretary of Health and Human Services
- Director of National Intelligence
- Secretary of Defense
- Secretary of Homeland Security

Activities

- Coordination of the implementation of the Trafficking Victims Protection Act.
- Measuring and evaluating progress of the U.S. and foreign countries in the areas of prevention, protection, assistance, and prosecution.
- Assisting the Secretary of State in preparation of the Trafficking in Persons Reports.
- Data collection, research, and resource information on domestic and international trafficking without infringing upon the confidentiality of victims of trafficking.
- Efforts to facilitate cooperation among countries of origin, transit, and destination to strengthen local and regional capacities to prevent trafficking, assist trafficking victims, prosecute traffickers, and reintegrate stateless victims of trafficking.
- Examining the role of the international sex tourism industry in trafficking in persons.
- Engaging in consultation with governments and non-governmental organizations to combat trafficking in persons.

United States Department of State Office to Monitor and Combat Trafficking in Persons

- Chaired by a Director with the rank of Ambassador-at-Large
- Provides assistance to the Task Force

Senior Policy Operating Group

- Consists of senior officials designated as representatives of the appointed members of the Task Force and is chaired by the Director of the Office to Monitor and Combat Trafficking in Persons
- Coordinates activities of Federal departments and agencies regarding policies involving trafficking in persons and the functions of the Interagency Task Force

Trafficking-Related Statutes under International Law and Domestic Legislation

31. Prostitution under International Law

Convention on the Elimination of All Forms of Discrimination against Women

Taking legislative and other measures to suppress all forms of traffic in women and exploitation of prostitution of women
[Art. 6]

United Nations Declaration on the Elimination of Violence against Women

Violence against women shall be understood to encompass [...] physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in persons and forced prostitution.
[Art. 2]

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.
[Preamble]

Criminalizing procuring, enticing, or leading away another person for purposes of prostitution, or exploiting the prostitution of another *[Art. 1]* and keeping or managing a premise for purpose of prostitution
[Art. 2]

Abolishing laws under which persons engaging in prostitution are subject to special registration or notification
[Art. 6]

Supervising employment agencies to prevent employment seekers' exposure to the danger of prostitution
[Art. 20]

Taking educational, health, social, and economic measures for the prevention of prostitution and the rehabilitation and social adjustment of victims of prostitution
[Art. 16]

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

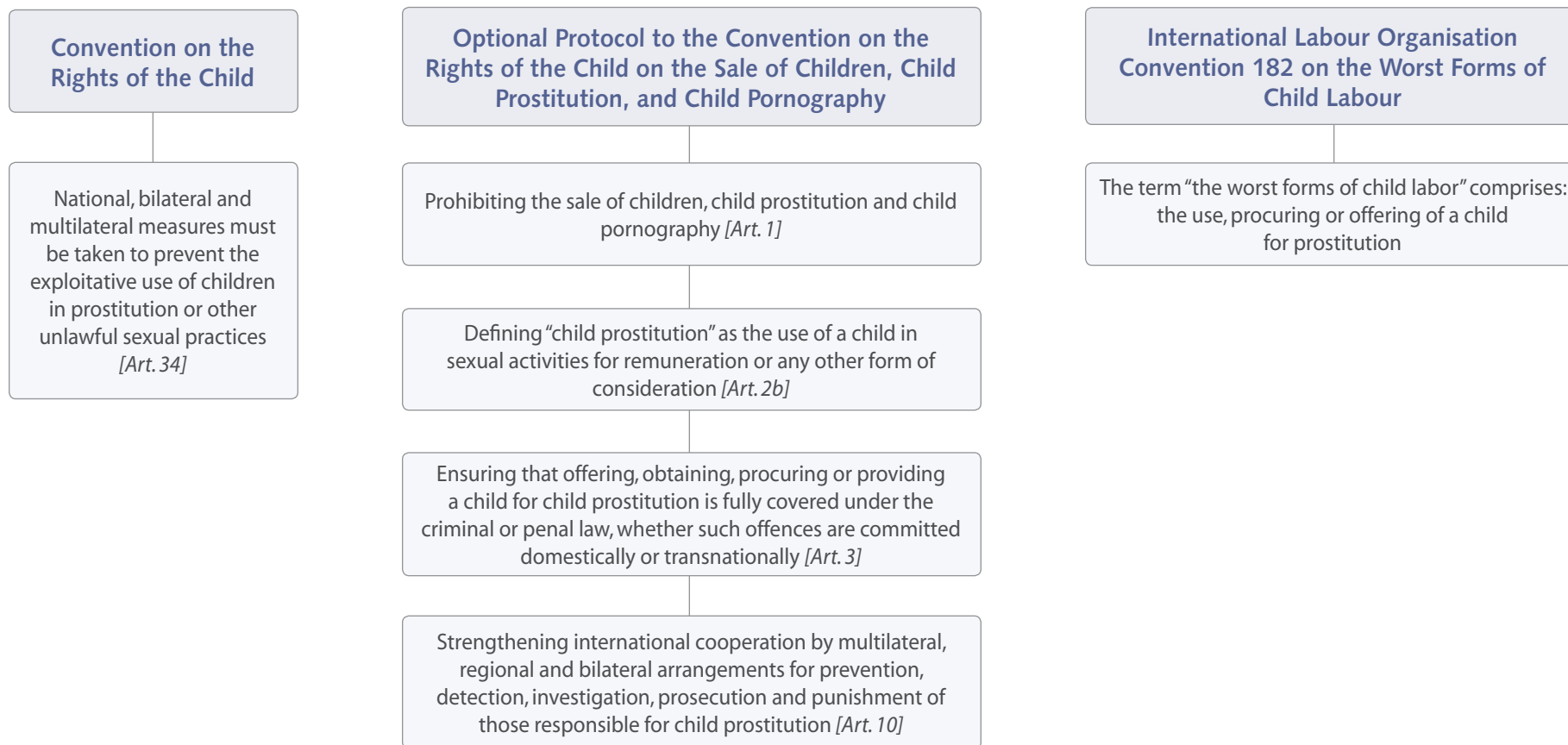
Exploitation includes exploitation of the prostitution of others and other forms of sexual exploitation.
[Art. 3]

Rome Statute of the International Criminal Court

The term "crime against humanity" includes [...] enforced prostitution.
[Art. 7]

The term "war crimes" includes [...] enforced prostitution.
[Art. 8]

32. The Prohibition of Child Prostitution under International Law



33. Child Sex Tourism Under International Law

Preamble to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography:

“Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography”

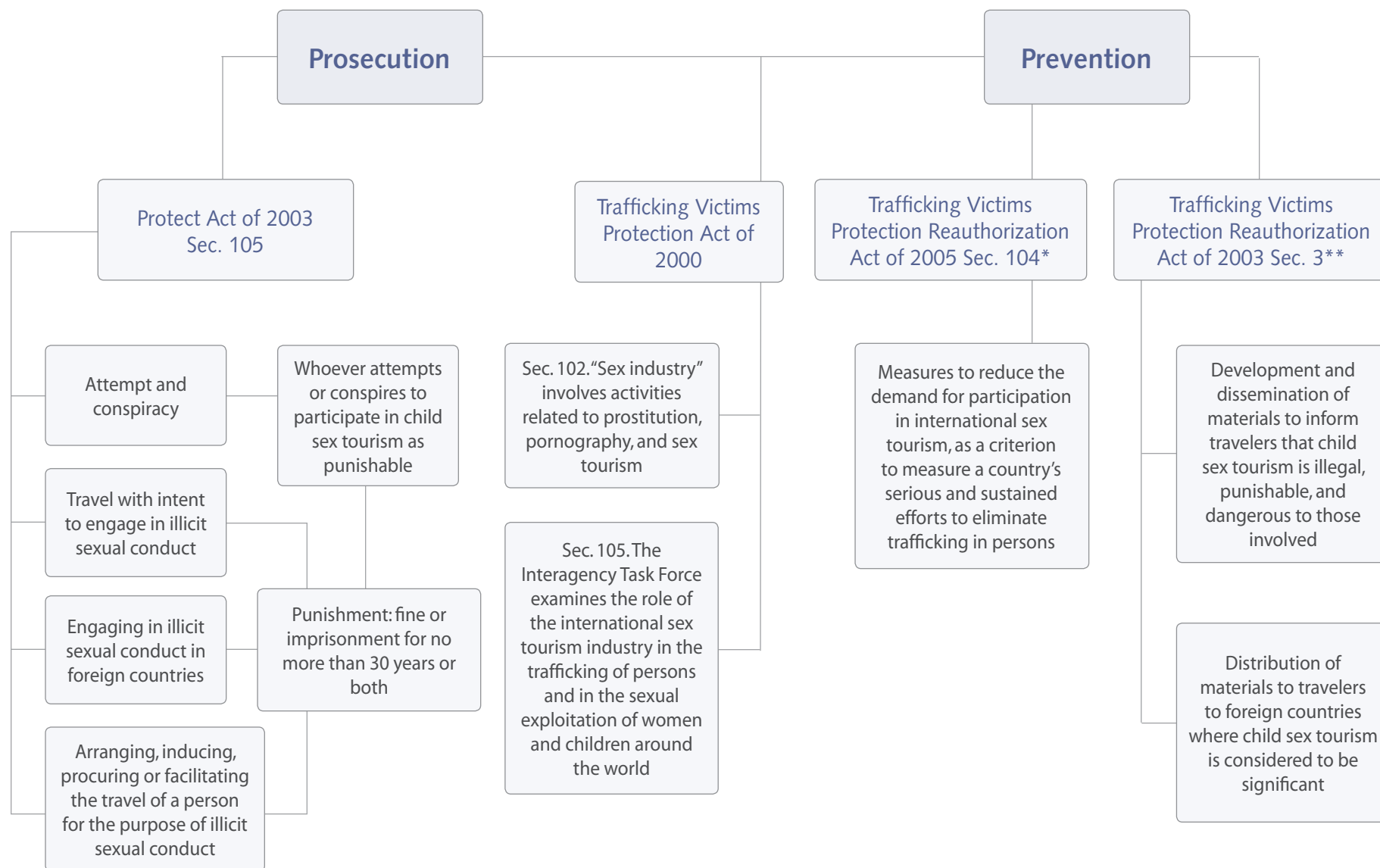
Article 10

States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

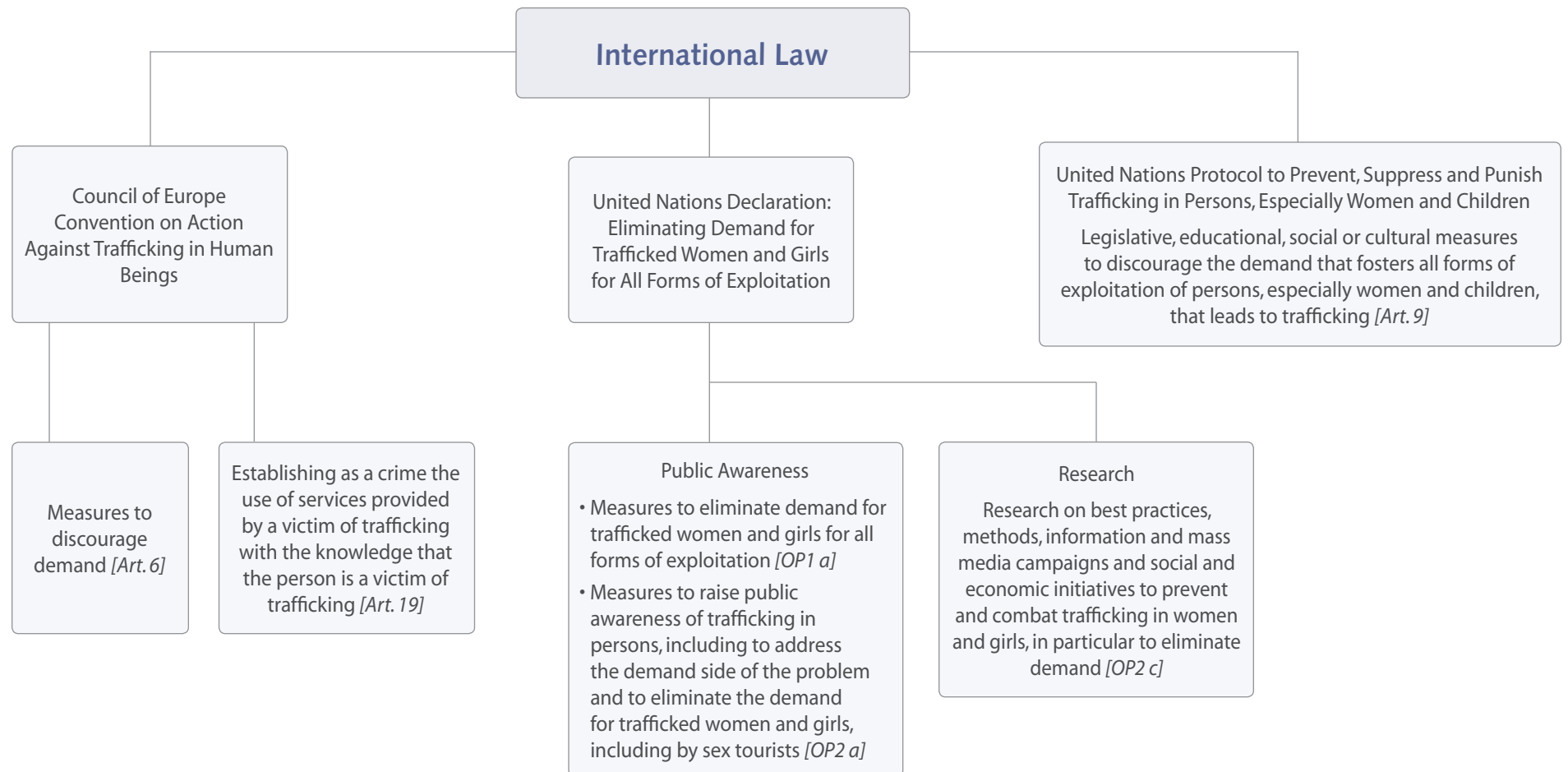
States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children, to the sale of children, child prostitution, child pornography and child sex tourism.

34. United States Law on Child Sex Tourism

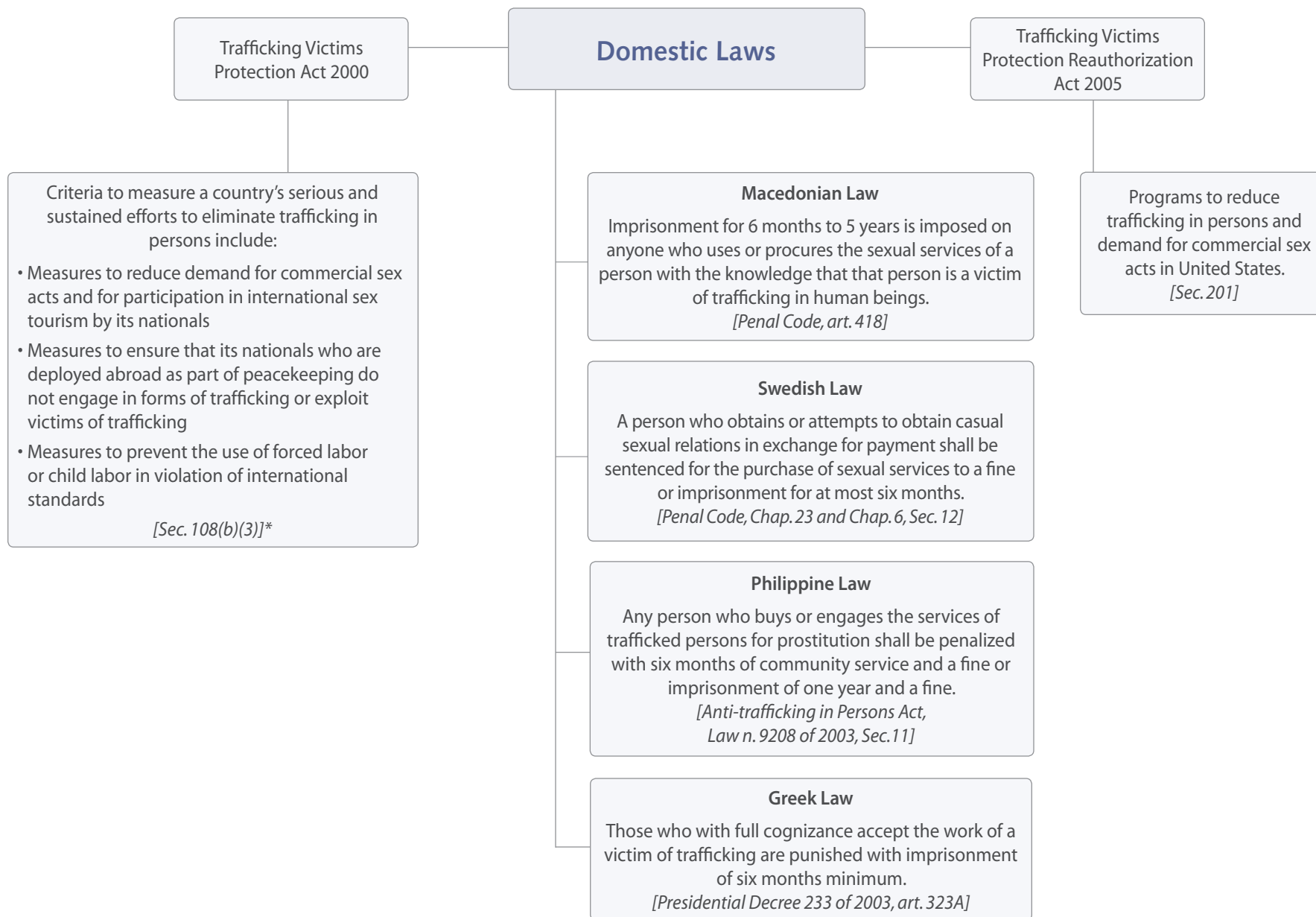


* Amending Trafficking Victims Protection Act Sec. 108.
 ** Amending Trafficking Victims Protection Act Sec. 106.

35. Demand under International Law



36. Demand under Domestic Legislation



* As amended by the Trafficking Victims Protection Reauthorization Act of 2005.

37. Marriage under International Law

1948 Universal Declaration of Human Rights	1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	1957 Convention on the Nationality of Married Women	1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage	1966 International Covenant on Social, Economic and Cultural Rights	1979 Convention on the Elimination of All Forms of Discrimination Against Women
<p>Men and women have the right to marry, to found a family and are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with free and full consent. [Art. 16]</p>	<p>State Parties agree to abolish any institution or practice whereby "A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or a woman on the death of her husband is liable to be inherited by another person." [Art. 1]</p> <p>State Parties must prescribe a minimum marriage age, facilitate methods in which both parties can freely express consent to marriage to appropriate authorities, and encourage the registration of marriages. [Art. 2]</p>	<p>The nationality of a wife does not automatically change by marriage or dissolution of marriage, when the two parties are of differing nationalities. [Art. 1]</p> <p>A wife has the right to acquire the nationality of her husband. [Art. 3]</p>	<p>Marriage is not considered legal without the free consent of both parties. [Art. 1]</p> <p>States are responsible for specifying a minimum age for legal marriage. [Art. 2]</p> <p>All marriages must be registered in an appropriate official registry designated for this purpose. [Art. 3]</p>	<p>Marriage must be entered into with the free consent of intending spouses. [Art. 10]</p>	<p>Neither marriage to an alien nor change of nationality of the husband can automatically change the nationality of a wife; women and men have equal rights as to the nationality of their children. [Art. 9]</p> <p>Women cannot be discriminated against on ground of marriage . [Art. 11]</p> <p>Men and women have the same right to freely choose a spouse, enter into marriage, and make decisions about family matters, profession, and ownership of property. Child marriage shall have no legal effect. [Art. 16]</p>

38. U.S. International Marriage Broker Regulation Act of 2005

Violence Against Women and Department of Justice Reauthorization Act of 2005

Definition of an International Marriage Broker

An international marriage broker is a legal entity that charges fees for providing dating, matrimonial matchmaking services, or social referrals between a U.S. citizen, or aliens lawfully admitted to the U.S. as permanent residents, and foreign national clients by providing personal contact information or otherwise facilitating communication between individuals.

[Sec. 833(e)(4)(A)]

Individual Responsibility

The Secretary of State shall develop an information pamphlet, which shall include a warning concerning the potential use of K non-immigrant visas by U.S. citizens who have committed domestic violence, sexual assault, child abuse, or other crimes.

[Sec. 833(a)(2)]

Government Responsibility

A person who knowingly discloses, uses, or causes any information obtained by an international marriage broker to be used for any purposes other than the disclosures required under this paragraph shall be punished by a fine and imprisonment for up to a year."

[Sec. 833(d)(3)(c)]

Responsibility of International Marriage Brokers

International marriage brokers are prohibited from marketing, providing contact information, photographs or general information about children under the age of 18.

[Sec. 833(d)(1)]

Each international marriage broker shall search the National Sex Offender Public Registry.

[Sec. 833(d)(2)(A)(i)]

Each international marriage broker shall collect background information about the U.S. client; to whom the personal contact information of a foreign national client would be provided.

[Sec. 833(d)(2)(A)(ii)]

International marriage brokers shall collect a certification signed by the U.S. client attesting:

- Any civil protection order or restraining order issued against the U.S. client;
- Any federal, State or local arrest or conviction for homicide, murder, manslaughter, assault, battery, rape, domestic violence, torture, child abuse or neglect, incest, sexual exploitation, trafficking, peonage, holding hostages, involuntary servitude, slave trade, kidnapping, stalking, prostitution, procuring, and receiving proceeds of prostitution;
- Marital history of the U.S. client
- All states and countries in which the U.S. client has resided since he was 18.

[Sec. 833(d)(2)(B)]

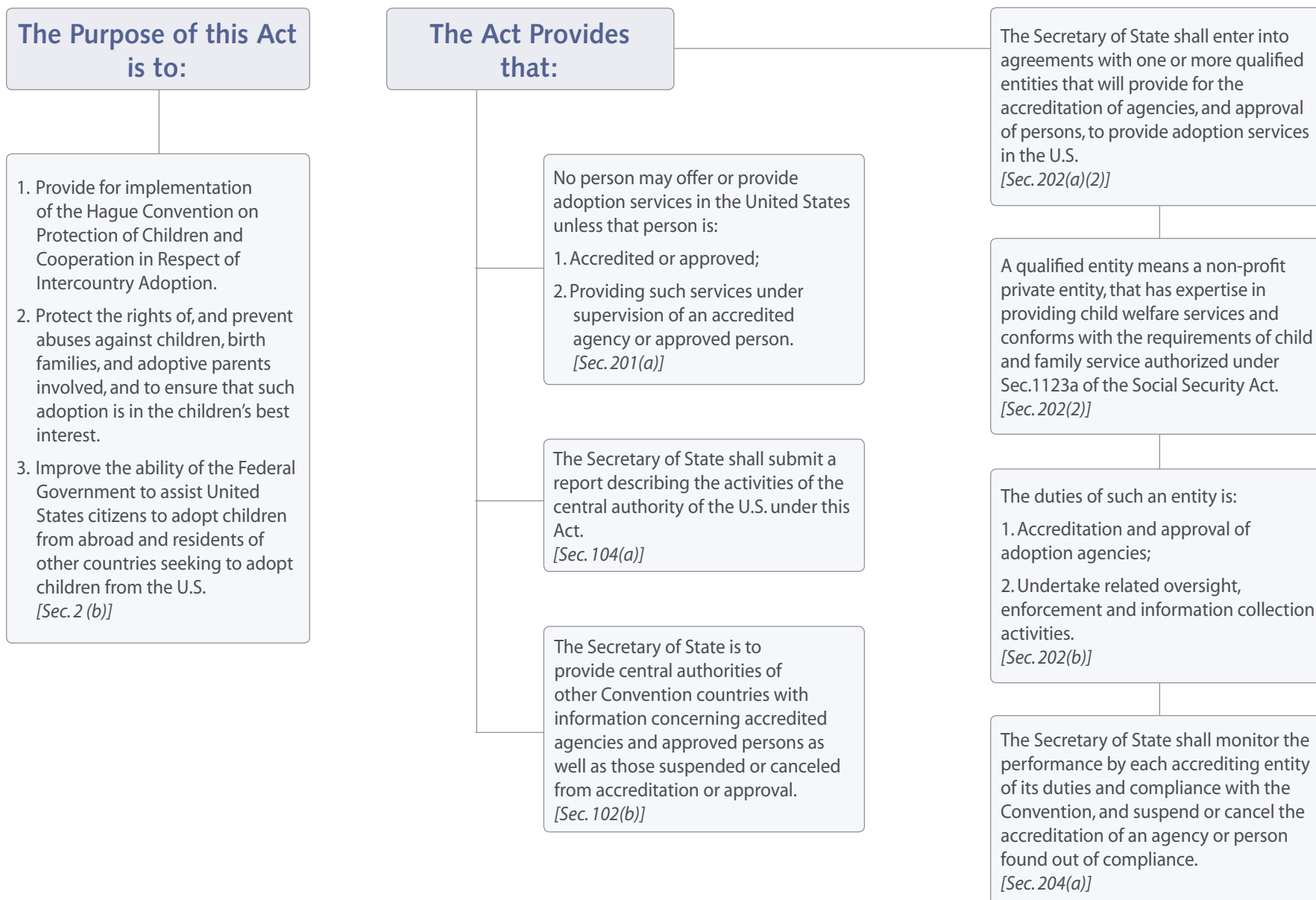
An international marriage broker shall not provide any U.S. client or representative with the personal contact information of any foreign national client unless and until the international marriage broker has collected the required information.

[Sec. 833(d)(3)(A)]

39. Adoption under International Law

Travaux Préparatoires to the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	1989 Convention on the Rights of the Child	1993 Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption
<p>Where illegal adoption amounts to a practice similar to slavery, it will fall within the scope of the Protocol. [Para. 66]</p>	<p>States shall ensure alternative care for children who cannot be left in the environment of their families. This care can include foster placement, kafalah of Islamic law, adoption or other suitable steps, which reflect the child's best interests regarding ethnic, religious, cultural and linguistic background. [Art. 20]</p> <p>States must ensure that adoption is authorized only by competent authorities. States must recognize inter-country adoption as an alternative if there is no suitable method of care in the child's home country, and ensure safeguards for this adoption that match with the rules of the native country. [Art. 21]</p>	<p>Objective: To Ensure that inter-country adoption takes place in the interest of the child and to prevent abduction, sale of, or traffic in children. [Art. 1]</p> <p>The convention covers only adoptions creating permanent parent-child relationships. [Art. 2]</p> <p>All options for placement within the state must be considered before selecting the alternative of inter-country adoptions. [Art. 4]</p> <p>The State must select an authority to take care of the duties imposed by the Convention. [Art. 6]</p> <p>These authorities must act to prevent improper financial gain in connection with an adoption. [Art. 8]</p> <p>Each State must make notification of the identity of the authority competent to certify an adoption. When certified by this designated authority, an adoption made in accordance with the convention shall be recognized by all other Contracting States. [Art. 23]</p> <p>A state can refuse to recognize an adoption only if it is manifestly contrary to its public policy on the best interest of the child. [Art. 24]</p> <p>No one shall derive improper financial or other gain, or receive unreasonably high remuneration for an activity related to inter-country adoption. Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid. [Art. 32]</p>

40. U.S. Intercountry Adoption Act of 2000



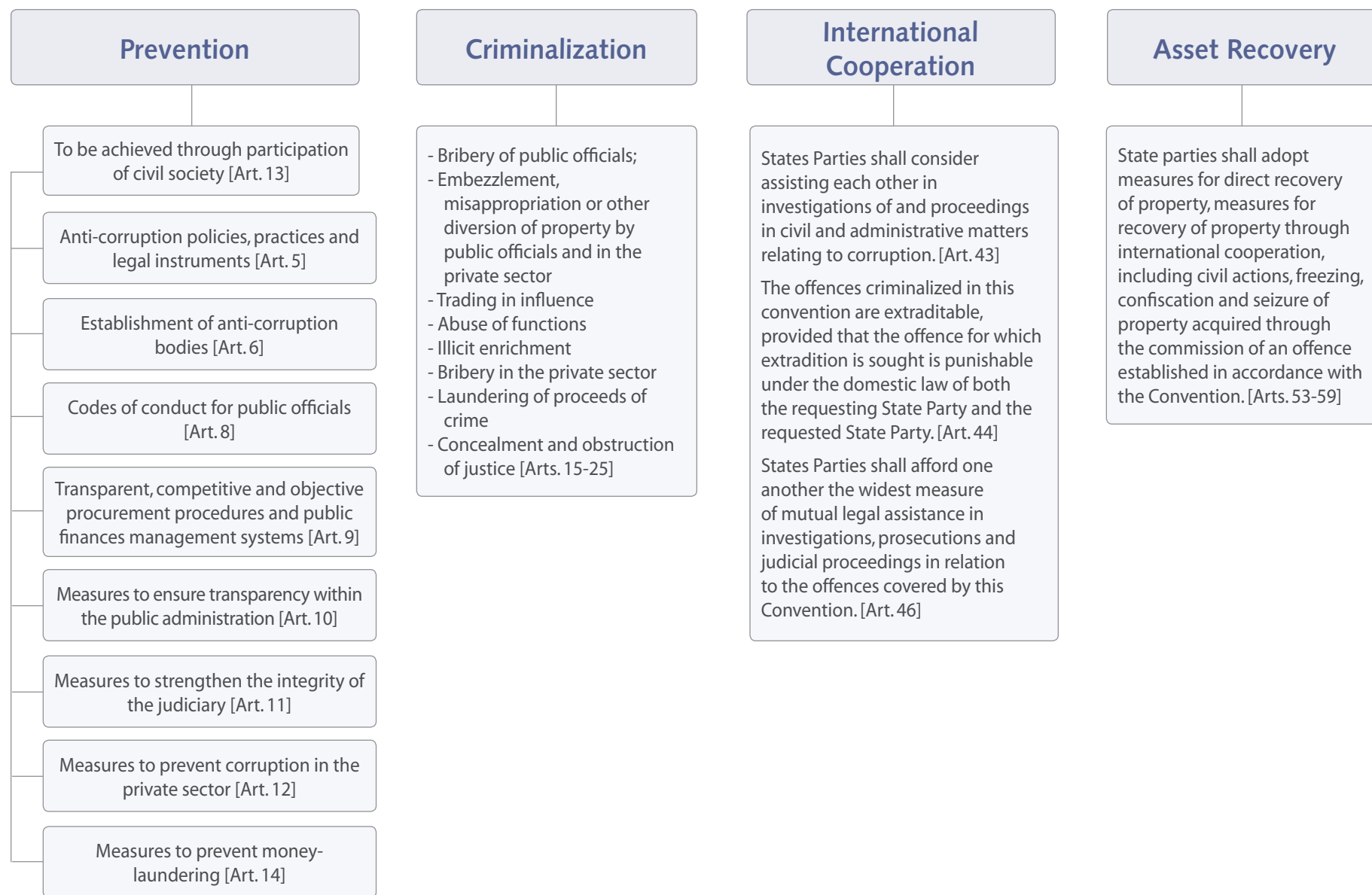
41. Slavery under International Law

1926 Slavery Convention	1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	International Covenant on Civil and Political Rights	Universal Declaration of Human Rights	Rome Statute of the International Criminal Court	United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
<p>Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. [Art. 1]</p> <p>Parties shall take the necessary steps:</p> <p>a) To prevent and suppress the slave trade;</p> <p>b) To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms. [Art. 2]</p> <p>Parties shall take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery. [Art. 5]</p>	<p>States shall take all practicable necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the following institutions and practices:</p> <p>a) Debt Bondage b) Serfdom c) Any institution or practice whereby:</p> <p>i) A woman is promised or given away in marriage on payment. ii) The right of a husband of a woman, his family, or his clan, to transfer her. iii) The liability of a woman to be inherited. [Art. 1]</p> <p>The act of conveying or attempting to convey slaves from one country to another shall be a criminal offence. [Art. 3]</p> <p>The act of enslaving another person or of inducing another person to give himself or a person dependent upon him into slavery, or of attempting these acts, or being accessory thereto, or being a party to a conspiracy to accomplish any such acts, shall be a criminal offence. [Art. 6]</p>	<p>No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited. [Art. 8]</p>	<p>No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. [Art. 4]</p>	<p>“Crime against humanity” includes any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:</p> <p>c) Enslavement g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity. [Art. 7(1)]</p> <p>“Enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children. [Art. 7(2)]</p> <p>For the purpose of this statute, “war crimes” includes:</p> <p>e) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7. [Art. 8]</p>	<p>“Trafficking in persons” shall include... slavery, or practices similar to slavery... [Art. 3]</p>

42. Prohibition of Forced Labor under International Law

Forced Labour Convention, 1930 (ILO 29)	Abolition of Forced Labour Convention, 1957 (ILO 105)	Minimum Age Convention, 1973 (ILO 138)	Private Employment Agencies Convention, 1997 (ILO 181)	Worst Forms of Child Labour Convention, 1999 (ILO 182)	United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)
<p>Forced or compulsory labour is: "all work or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." [Art. 2]</p>	<p>Each Member State undertakes to suppress and not to make use of any form of forced or compulsory labour</p> <ul style="list-style-type: none"> • as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; • as a method of mobilising and using labour for purposes of economic development; • as a means of labour discipline; • as a punishment for having participated in strikes; • as a means of racial, social, national or religious discrimination. <p>[Art. 1]</p>	<p>The minimum age of admission to any work that is likely to jeopardize the health, safety or morals of young persons shall not be under 18 years. [Art. 3]</p> <p>However, national laws or competent authority may authorize work from the age of 16 years. [Art. 2]</p> <p>In a State whose economy and educational facilities are underdeveloped the minimum age should be 14 years. [Art. 2]</p>	<p>A private employment agency is one who provides "services for matching offers and applications for employment" and "other job seeking services". [Art. 1]</p> <p>Workers recruited by these agencies have the right of association and collective bargaining. [Art. 4]</p> <p>Workers are protected from discrimination in the recruitment process. [Art. 5]</p> <p>The agencies shall not charge fees directly or indirectly. [Art. 7]</p> <p>States shall ensure that child labour is not used or supplied by private employment agencies. [Art. 9]</p> <p>States shall protect workers employed by private agencies in relation to: minimum wages, working time and conditions, social security, occupational safety and health and compensations. [Art. 11]</p>	<p>The term "the worst forms of child labour" is defined as all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. [Art. 3(a)]</p>	<p>Exploitation shall include forced labour or services. [Art. 3]</p>

43. Strategies to Combat Corruption



United Nations Convention against Corruption, 2003.

The Protection  Project

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