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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Human Trafficking in Somalia: Legal Frameworks and Victim Protection

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Abstract. Somalia remains highly vulnerable to human trafficking, with women and children bearing a disproportionate burden of exploitation, including forced labour, sexual exploitation, forced marriage, child recruitment by armed groups, and forced begging. Although Somalia has adopted constitutional and statutory measures to combat trafficking, persistent legal and institutional shortcomings continue to hinder effective prevention, prosecution, and victim protection. This study examines Somalia's anti-trafficking legal framework through a gender-responsive lens, evaluating the effectiveness of the Provisional Constitution of 2012, the Penal Code, and the 2025 Draft Bill on Combating Human Smuggling and Trafficking in Persons in safeguarding the rights of women and children. Employing a doctrinal legal research methodology, the study analyses primary legal sources alongside relevant international instruments, including the Palermo Protocol, the Convention on the Rights of the Child (CRC), and the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), supported by secondary data from international and national trafficking reports. The findings indicate that while the Constitution and Penal Code provide a legal basis for addressing trafficking, important deficiencies remain in enforcement, victim protection, and the treatment of gender-specific forms of exploitation. The study concludes that the enactment of the Draft Bill, together with harmonized penalties and strengthened victim-centered, gender-responsive protection mechanisms, would significantly enhance Somalia's capacity to prevent trafficking, prosecute offenders, and protect vulnerable victims.

Keywords: Child; Forced; Human; Marriage; Somalia; Trafficking.



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1. Introduction

Human trafficking remains one of the most serious transnational crimes affecting vulnerable populations worldwide, with women and children constituting the majority of identified victims. In Somalia, prolonged conflict, displacement, poverty, irregular migration, weak institutional capacity, and gender inequality have heightened the susceptibility of women and children to trafficking, forced labor, sexual exploitation, and other forms of abuse. Despite growing international concern and ongoing legislative initiatives, significant challenges remain in ensuring effective protection and access to justice for trafficking victims.¹

Human trafficking has evolved into one of the most lucrative forms of transnational organized crime, generating an estimated US\$150 billion annually worldwide. Global estimates published by the International Labour Organization (ILO), in collaboration with the Walk Free Foundation (WFF) and the International Organization for Migration (IOM), indicate that approximately 40.3 million people were living in situations of modern slavery in 2016, equivalent to 5.4 victims per 1,000 persons globally. Women and girls accounted for nearly 29 million victims, representing about 72 per cent of the total affected population.²

In addition, almost five million individuals were subjected to forced sexual exploitation, with children constituting more than one-fifth of those victims. The same estimates further revealed that nearly 25 million people were trapped in forced labour and 15.4 million in forced marriages worldwide. While the clandestine nature of trafficking makes precise quantification difficult, these figures demonstrate the extensive scale of the problem and highlight the urgent need for effective legal and institutional measures to protect vulnerable groups, particularly women and children.³

This paper examines Somalia's legal response to human trafficking from a gender-responsive perspective, focusing on the effectiveness of domestic laws, policies, and institutional mechanisms designed to protect women and children

¹ Ethan F Rothman et al; 'Public Health Research Priorities to Address US Human Trafficking' (2017), *American Journal of Public Health*, 107(7) 1045 available at https://www.researchgate.net/publication/337146831_Public_Health_Research_Priorities_to_Address_US_Human_Trafficking?tp=eyJjb250ZXh0Ijp7InBhZ2UiOiJwdWJsaWNhdGlvbiIsInByZXZpb3VzUGFnZSI6bnVsbH19.

² Tammy J. Toney-Butler; Megan Ladd; Olivia Mittel, 'Human Trafficking' (2023), *National Library of Medicine*, <https://www.ncbi.nlm.nih.gov/books/NBK430910/>.

³ Hannah E. Fraley et al, 'Systematic Review of Human Trafficking Educational Interventions for Health Care Providers' (2020) 42(2) *Western Journal of Nursing Research*, 131-142 <https://doi.org/10.1177/0193945919837366>.



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from trafficking and related forms of exploitation. Particular attention is given to victim identification procedures, access to justice, protection measures, child-sensitive safeguards, and rehabilitation services.

The study argues that despite recent legislative and policy developments, significant gaps remain in victim protection, implementation, institutional coordination, and support services for survivors. It therefore proposes legal and policy reforms aimed at strengthening a victim-centered and gender-responsive anti-trafficking framework capable of addressing the specific vulnerabilities of women and children and enhancing Somalia's efforts to prevent and combat human trafficking.

2. Research Methods

his study employs a doctrinal legal research methodology (normative legal research) to examine Somalia's anti-trafficking legal framework through a gender-responsive lens. Doctrinal legal research is chosen because it focuses on the systematic analysis of statutory laws, constitutional provisions, international legal instruments, and judicial principles to evaluate legal coherence, effectiveness, and gaps within a jurisdiction.

3. Results and Discussion

3.1. Results of the Legal and Contextual Analysis on Human Trafficking in Somalia

The evaluation of Somalia's legal frameworks, institutional capabilities, and socio-economic dynamics reveals that human trafficking remains a critical transnational crime heavily impacting vulnerable demographics, particularly women and children. The primary findings derived from this study underscore the compounding pressures of prolonged instability and structural inequality on marginalized populations across the country.

According to the 2023 Global Slavery Index, Somalia recorded a modern slavery prevalence rate of 6.2 per 1,000 people in 2021, affecting approximately 98,000 individuals. Alongside this high prevalence, the nation scored a low 18 out of 100 for its national response capacity. These figures reflect severe institutional and socio-economic vulnerabilities driven by prolonged conflict, mass displacement, and gender inequality.

Beyond broad prevalence metrics, human trafficking in Somalia manifests in multiple severe forms, including forced labor in rural and informal sectors, forced child recruitment by armed groups (such as Al-Shabaab), forced criminality, forced begging, and gender-specific violations like forced marriage. These



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exploitative practices target individuals who lack socio-economic protection and are cut off from stable livelihoods or secure community networks.

Furthermore, traditional and customary practices such as *godob reeb*, *godob tir*, *dumaal*, and *higsiisin* frequently instrumentalize marriage to resolve clan disputes or preserve kinship ties. These customs systematically bypass individual consent and disproportionately victimize women and girls, turning matrimony into a transactional mechanism for group reconciliation or obligation.

In tandem with these contextual and societal pressures, official responses face distinct procedural obstacles. Although recent statistics from the Office of the Attorney General indicate an upward trend in investigations and convictions such as 57 investigations and 67 convictions recorded in the 2024 Trafficking in Persons Report systemic barriers persist in the administration of justice.

Among these hurdles, enforcement authorities frequently conflate human trafficking with migrant smuggling, blurring the legal lines between voluntary or facilitated movement and coercive exploitation. This confusion impedes targeted interventions and skews official understanding of how illicit networks operate on the ground.

Compounding these operational misalignments are a lack of comprehensive data collection systems and persistent risks of official complicity. These structural bottlenecks hinder long-term monitoring, weaken investigative follow-through, and collectively undermine the overall efficacy of Somalia's current anti-trafficking measures.

3.2. Gaps and Adequacy of the Anti-Trafficking Legal Frameworks

The analysis of Somalia's multi-tiered legal architecture spanning the 2012 Provisional Constitution, the Penal Code, and the pending 2025 Draft Bill on Combating Human Smuggling and Trafficking in Persons demonstrates an evolving yet fragmented commitment to aligning with international treaties like the Palermo Protocol and the Convention on the Rights of the Child (CRC). This legislative progression reflects both structural aspirations and the persistent friction of implementation on the ground.

At the foundational level, constitutional provisions offer important safeguards for basic human rights. Article 14 of the Provisional Constitution explicitly prohibits slavery, servitude, trafficking, and forced labor for any purpose, establishing an absolute foundational baseline across the jurisdiction.

Furthermore, Article 29 addresses critical child-specific protections. These safeguards include explicit prohibitions against hazardous labor and unlawful



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recruitment into armed conflict, alongside explicit guarantees of legal aid and identity registration for minors.

However, the practical realization of these constitutional rights is heavily constrained by weak institutional enforcement and the historical disruption of civil registration systems. Without robust administrative machinery, translating high-level constitutional clauses into daily protections remains an ongoing institutional hurdle.

On a positive administrative front, the establishment of the National Identification and Registration Authority (NIRA) provides a modern mechanism to verify identities and prevent fraud starting in 2023. Despite this innovation, its integration with national anti-trafficking referral pathways remains a work in progress, limiting its immediate utility for victims in transit or hiding.

Beyond constitutional guidelines, statutory enforcement relies heavily on older statutes. Somalia's existing Penal Code contains scattered provisions relevant to exploitation, such as Article 408 penalizing forced prostitution via coercion, Article 455 prohibiting slavery, Article 457 penalizing unlawful transfer or detention, and Article 464 prohibiting forced labor.

Despite these provisions, the Penal Code lacks a comprehensive, dedicated framework that captures the full spectrum of modern human trafficking acts as defined internationally. This absence restricts prosecutors' ability to uniformly penalize diverse trafficking topologies under a single, cohesive statute.

To bridge these historical statutory voids, the introduction of the 2025 Draft Bill on Combating Human Smuggling and Trafficking in Persons marks a vital legislative shift. The Bill directly addresses previous shortcomings by explicitly criminalizing human and child trafficking as distinct offenses, while carefully separating trafficking from migrant smuggling.

Crucially, the 2025 Draft Bill introduces vital victim-centric safeguards into domestic law. These provisions embed the principle of non-punishment for victims, enforce strict confidentiality protections, and outline structured repatriation and compensation mechanisms through Articles 6, 8, 11, 12, 14, 15, and 18.

Finally, because women and girls suffer disproportionately from intersecting crises of displacement, patriarchal customary norms, and forced marriage, a uniform legal approach is ultimately insufficient. Aligning fully with international standards requires a gender-responsive and victim-centered strategy that combines the legislative enforcement of the 3Ps Prevention, Protection, and



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Prosecution with active community engagement to dismantle harmful traditional practices and bolster structural rehabilitation facilities.

3.3. Institutional Coordination, Gaps in Victim Protection, and the Path Forward

Beyond statutory gaps, the practical implementation of anti-trafficking measures in Somalia is severely hindered by institutional fragmentation, limited inter-agency coordination, and a critical lack of specialized infrastructure for victim protection. Law enforcement agencies, border control units, judicial personnel, and social service providers often operate in silos without standardized national referral mechanisms or harmonized operating procedures. This lack of integration creates dangerous procedural voids where victims particularly displaced women and unaccompanied minors fall through the cracks, frequently going unidentified or risking re-victimization by authorities who misclassify them as irregular migrants or offenders.

Furthermore, specialized safe houses, psychological counseling, trauma-informed medical care, and legal aid services remain severely underfunded, geographically concentrated, or entirely absent outside major urban centers. While legal instruments establish the theoretical architecture for justice, the absence of secure shelters and comprehensive reintegration support forces many survivors to return to abusive environments or exploitative networks out of economic desperation. Addressing these operational deficits requires transforming legal intent into sustained administrative action, establishing multi-disciplinary task forces, and integrating civil society organizations into a unified national protection framework.

To overcome these structural hurdles, institutional reform must prioritize the establishment of clear, operational guidelines that bridge law enforcement mandates with human rights protections. Frontline officers and judicial personnel require targeted capacity-building programs to improve victim identification and distinction protocols, ensuring that trafficking survivors are treated as rights-holders rather than criminals.

Moreover, data collection mechanisms must be standardized across regional administrations to accurately capture trafficking trends, monitor case flows, and guide evidence-based policy formulation. Without reliable national data, resource allocation remains reactive rather than strategic, leaving high-risk corridors and vulnerable displacement camps unmonitored.

In parallel with institutional enhancements, community-level engagement is essential to dismantle the social norms and patriarchal structures that perpetuate exploitative practices. Public awareness campaigns conducted in



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collaboration with local elders, religious leaders, and civil society can challenge harmful traditional arrangements and promote alternative dispute resolutions that do not commodify women and children.

Financial empowerment initiatives targeted at displaced households and marginalized communities can also serve as a vital preventative shield against economic coercion. When families have secure access to livelihoods and education, they become significantly less susceptible to false employment promises and predatory traffickers operating within informal labor networks.

Cross-border collaboration remains equally indispensable, given the transnational nature of trafficking routes originating, transiting, or terminating in Somalia. Strengthening intelligence sharing and operational synergy with neighboring states and international bodies will help dismantle regional trafficking rings and intercept illicit financial flows associated with modern slavery.

The successful operationalization of the 2025 Draft Bill will hinge upon the active backing of executive and judicial branches to ensure that its progressive provisions are matched by adequate budgetary allocations. Establishing dedicated witness protection programs and specialized investigative units will further safeguard those willing to testify against organized criminal networks.

Ultimately, bridging the gap between paper-based legal frameworks and ground-level realities requires a holistic, long-term commitment from both state authorities and international partners. By combining robust legal prosecution with comprehensive survivor support and grassroots prevention, Somalia can steadily dismantle the systemic drivers of human trafficking.

Sustaining these multi-faceted reforms will not only safeguard the fundamental rights of women and children but will also restore institutional trust and strengthen the rule of law throughout the country. Ensuring that justice and protection are accessible to every citizen remains the ultimate benchmark for evaluating Somalia's anti-trafficking architecture.

4. Conclusion

Somalia's legal architecture on human trafficking, comprising constitutional guarantees under Articles 14 and 29, scattered Penal Code provisions, and the pending 2025 Draft Bill, reflects a growing but incomplete commitment to combating trafficking and exploitation. While these instruments align broadly with international standards such as the Palermo Protocol and the CRC, persistent gaps in enforcement, victim identification, and institutional



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coordination continue to expose women and children to trafficking, forced labor, forced marriage, and forced recruitment. The disproportionate impact on women and girls, compounded by entrenched customary practices, underscores the need for a distinctly gender-responsive approach rather than a uniform legal response. Somalia's low prevention and protection scores relative to regional peers further highlight the disconnect between legal design and practical implementation. The enactment of the Draft Bill would mark a significant advancement, introducing victim non-punishment, compensation, and repatriation mechanisms currently absent from existing law. Ultimately, closing this implementation gap requires not only legislative reform but also sustained institutional capacity-building, inter-agency coordination, and community engagement with underlying social norms. Without these combined efforts, Somalia's vulnerable populations will remain exposed to trafficking despite an increasingly robust legal framework on paper.

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