

Legal Approaches to Trafficking (U.S. vs. EU)

Both the U.S. and EU member states are parties to the Palermo Protocol and share the fundamental goal of combating human trafficking, but their anti-trafficking laws and strategies differ due to distinct legal systems, policy priorities, and governance structures. These differences are also shaped by the fact that the EU is a union of multiple sovereign countries that implement the Protocol through their own national frameworks as well as EU-level directives. Although the U.S. has ratified the Palermo Protocol, it primarily relies on the Trafficking Victims Protection Act (TVPA) of 2000 as its central legal framework for addressing trafficking domestically.

Key Differences and Commonalities

- Commonalities include their shared adherence to the Palermo Protocol's core definition and the "5P" paradigm of Prevention, Protection, Prosecution, Partnership, and Policy.
- Both approaches recognize the domestic and transnational nature of human trafficking and the importance of international cooperation.

	United States Approach	EU Approach
Main Legal Instruments	The Trafficking Victims Protection Act (TVPA) of 2000, reauthorized over time. All 50 states all have their own laws which may address more industry or population focused regional needs.	Directive 2011/36/EU, updated by Directive (EU) 2024/1712 Palermo Protocol
Types of Exploitation Covered	Focuses broadly on sex trafficking and forced labor. Does not specifically list forms like begging, forced marriage or forced criminality in its main definitions but are considered forms of labor trafficking.	Covers a wider range of exploitation, including sexual exploitation, forced labor, slavery, servitude (including forced begging), exploitation for criminal activities, organ removal, and, with 2024 updates, forced marriage, surrogacy, and illegal adoption.
Focus on Reducing Demand	Addresses demand mainly by prosecuting traffickers. Prevention activities are more limited as the focus is identification and support of survivors.	Emphasize reducing the demand that drives all forms of exploitation. Recent updates require making it a crime to knowingly use services from trafficked victims.
Help for Victims & Immigration	Support and assistance are often provided without requiring victims to cooperate in criminal investigations (not always guaranteed). In some cases, eligible family members may also receive the same support as the victim of this crime.	Support and assistance are often provided without requiring victims to cooperate in criminal investigations (not always guaranteed) but it varies for each country. Non-EU victims can also get temporary or permanent residence permits.
Technology facilitated Trafficking	Prosecutes trafficking involving technology but doesn't specifically list technology use as a factor that increases penalties in its main laws.	The 2024 Directive specifically states that using technology (like the internet) for trafficking is a factor that increases penalties. It also includes exploitation for online criminal activities.
Child Trafficking	Federal law criminalizes child sex and labor trafficking, but child labor laws have exemptions — especially in agriculture — allowing minors, even as young as 12, to work in some cases, including on family farms and sometimes in hazardous roles.	Child labor is prohibited, and the minimum work age cannot be below the school-leaving age, except for limited exceptions or rules more favorable to young people.

Strengths and Weaknesses

United States

The U.S. approach to human trafficking under the TVPA has clear strengths, including strong prosecution tools, the global oversight provided by the State Department's TIP Report, and victim-centered measures such as T visas and access to services. Federal coordination and the TVPA's broad 5P framework also support a comprehensive response. However, the system faces notable weaknesses: the focus on prosecution, particularly on labor trafficking cases, can overshadow victim support, and many protections depend on victims' cooperation with law enforcement. Enforcement is uneven across states, labor trafficking remains under-addressed, and child labor exemptions—especially in agriculture—leave minors vulnerable. In some cases, victims may still face criminalization despite federal guidance, illustrating ongoing gaps in implementation.

European Union

The EU's Anti-Trafficking Directive provides a strong, rights-based and victim-centered framework that includes a broad definition of exploitation, less conditional access to assistance, and measures to address demand and technology-facilitated trafficking. EU-level coordination mechanisms and mandatory national rapporteurs also help strengthen monitoring and cooperation across Member States. However, significant weaknesses persist: implementation varies widely between countries, creating uneven protection and prosecution standards, and many criminal justice systems still prioritize cross-border cases over internal trafficking. In practice, this leads to inconsistent victim identification, gaps in specialized services, and differing levels of law enforcement capacity across the EU.

Other Legal Approaches around the World



Association of Southeast Asian Nations

The **ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP, 2015)**, is the cornerstone of ASEAN's efforts against trafficking. It focuses on preventing trafficking, protecting victims, and fostering cooperation among member states. The **APA — ASEAN Plan of Action** — sets out how ACTIP is implemented in practice.

Australia

In Australia, human trafficking is primarily governed by the **Criminal Code Act 1995**, which makes slavery, forced labour, deceptive recruiting, and trafficking in persons illegal (Divisions 270 and 271). In 2013, two amendments — the **Slavery Act** and the **Vulnerable Witness Act** — strengthened Australia's laws on trafficking, slavery, and related protections.

African Union

Most African countries have ratified the UN Palermo Protocol, which, together with regional instruments like the **Maputo Protocol (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003)**, the **African Charter on the Rights and Welfare of the Child (ACRWC, 1990)**, and sub-regional frameworks, provides a legal basis to prevent human trafficking, protect victims, and promote cooperation across the continent.

West Asia (Middle-East)

The **Arab League's Model Law to Combat Human Trafficking (2012)** provides a **non-binding regional framework** aimed at harmonizing anti-trafficking legislation across member states. It aligns broadly with international standards by defining trafficking, outlining criminal penalties, and emphasizing victim protection and cross-border cooperation. While it offers useful guidance for states seeking to strengthen their national laws, its impact is limited by its non-binding nature and the significant variation in legal systems, enforcement capacity, and migrant worker governance across the region.



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