

**Contribution of the Sovereign Order of Malta
to the Special Rapporteur on Contemporary Forms of Slavery, Professor Tomoya Obokata
Geneva, March 2021**

[The Sovereign Order of Malta](#) assists **displaced persons around** the world, including children, through social services by its national Associations or through humanitarian aid carried out by its Associations and its worldwide humanitarian organization, [Malteser International](#). The Order of Malta collaborates with Governments, international organizations such as the Office of the High Commissioner for Human Rights, UNODC, IOM, regional organizations, universities, foundations and religious congregations in its fight against contemporary forms of slavery. The Order of Malta would like to highlight the value of the concrete action of many religious congregations in the protection and rehabilitation of **victims of contemporary forms of slavery**.

In order to better protect displaced persons from contemporary forms of slavery, the Order of Malta stresses the importance for all parties involved to respect the following relevant **international legal instruments**:

1. Human Rights

1.1. [Universal Declaration of Human Rights](#) (1948), Article 4 prohibits slavery and servitude, and the two Covenants of 1966, in particular Article 8 of the [Covenant on Civil and Political Rights](#).

1.2 [European Convention on Human Rights](#) (1950, amended in 2010), Article 4 prohibits slavery and forced labor. Note the case law of the [European Court of Human Rights](#) on this subject: *Siliadin v. France*, application no. 73316/01, judgment of July 26, 2005, paras. 89 and 112; *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of January 7, 2010, paras. 285 and 288; *J. and others v. Austria*, application no. 58216/12, judgment of January 17, 2017, para. 107; *Chowdury and others v. Greece* (March 30, 2017).

1.3 [American Convention on Human Rights](#) (1969), Article 6 prohibits slavery, servitude and forced labor. Note the ruling of the Inter-American Court of Human Rights, *Trabajadores Hacienda Brasil Verde vs Brasil*, judgment of October 20, 2016, Series C, No. 318, para. 319. Within the framework of the Organization of American States (OAS), the [Meetings of Ministers of Justice and Other Ministers or Attorneys General of the Americas \(REMJA\)](#) have recommended, in view of the fact that trafficking in persons constitutes a serious crime that must be qualified, prevented, and combated by all States and whose victims are in a condition of vulnerability that requires greater attention at the international level as well as the necessary assistance and protection, that this issue be kept as a permanent item on the agenda of its meetings.

1.4. [African Charter on Human and Peoples' Rights](#) (1981), Article 5 prohibits "*all forms of exploitation and degradation of man, in particular slavery, traffic in persons, physical or moral torture, and cruel, inhuman or degrading treatment or punishment*". See the decision of the [Court of Justice of the Economic Community of West African States](#) (ECOWAS) in the case of *Hadijatou Mani Koraou v. Niger* (27 October 2008)

1.5. 2004 [Arab Charter on Human Rights](#). See Articles 9 and 10.

1.6. [ASEAN Human Rights Declaration](#), adopted 2012, Article 13 prohibits slavery, human trafficking and organ trafficking.

2. Rights of the child

2.1. [International Convention on the Rights of the Child](#) (CRC) of 1989 and its two Optional Protocols of 2000, one on the [involvement of children in armed conflict](#), the other on the [sale of children, child prostitution and child pornography](#).

2.2. [Council of Europe Convention on the Protection of Children](#) against Sexual Exploitation and Sexual Abuse of 25 October 2007 ("Lanzarote Convention").

2.4. Council of Europe [Convention on Cybercrime](#), November 23, 2001 ("Budapest Convention"). This is the first international treaty on criminal offences committed via the Internet and other computer networks, in particular child pornography (Article 9).

3. Women's rights

3.1. 1979 [Convention on the Elimination of All Forms of Discrimination against Women](#) and its [1999 Optional Protocol](#) establishing the [Committee on the Elimination of Discrimination against Women](#).

3.2. 1994 [Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women](#) (Convention of Belém do Para).

3.3. 2003 [Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa](#). See Art. 4, 2, g: "*prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk*".

3.4. See the ILO [ABC of women workers' rights and gender equality](#). Second ed. 2007 and the following ILO Conventions:

1951 [Equal Remuneration Convention](#) (No. 100),

1952 [Social Security \(Minimum Standards\) Convention](#) (C102),

1958 [Discrimination \(Employment and Occupation\) Convention](#) (C111),

1962 [Equality of Treatment \(Social Security\) Convention](#) (C118),

1981 [Workers with Family Responsibilities Convention](#) (C156),

2000 [Maternity Protection Convention](#) (C183).

3.5. 2017 [“Training Manual for Judges and Prosecutors on Ensuring Women’s Access to Justice”](#) published by the *Partnership for Good Governance* (European Union and Council of Europe).

4. International humanitarian law applicable in armed conflict

4.1 In all situations of armed conflict, the fundamental guarantees of [Article 3 common to](#) the four Geneva Conventions of 1949 are applicable to *“all persons not taking a direct part in hostilities”*.

4.2. [Article 27 of the Fourth Geneva Convention of 1949](#), relative to the Protection of Civilian Persons in Time of War, proclaims respect for the human person and the inalienable character of fundamental rights.

4.3. [Article 1 common to the four 1949 Conventions](#), the States Parties *“undertake to respect and to ensure respect for the present Convention in all circumstances”*.

4.4. [Articles 75 \(“Fundamental guarantees”\)](#), 76 (“Protection of women”), 77 (“Protection of children”) and 78 (“Evacuation of children”) of the [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts \(Protocol I\)](#), of 8 June 1977

4.5. [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts \(Protocol II\)](#), 8 June 1977, in its Article 4 (*“Fundamental Safeguards”*), number 2, letter e, *prohibits, at any time and in any place, slavery and the slave trade in all their forms against all persons who are not or are no longer taking part in the hostilities, whether they are deprived of their liberty or not”*.

4.6. According to the ICRC Database of [Customary International Humanitarian Law](#), Rules 93 (*“Rape and Other Forms of Sexual Violence”*), 94 (*“Slavery and the Slave Trade”*), 95 (*“Forced Labour”*), 136 (*“Recruitment of Child Soldiers”*), and 137 (*“Participation of Child Soldiers in Hostilities”*) are norms of customary international law applicable in all armed conflicts.

5. International refugee law

5.1. [1951 Convention Relating to the Status of Refugees](#) and the [1967 Protocol](#). See the [Guidelines on International Protection No. 7: The Application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked](#) (2006).

The [Office of the United Nations High Commissioner for Refugees](#) (UNHCR) has a role to play in preventing [asylum seekers](#), [refugees](#), including [children](#), and other persons in need of international protection, [internally displaced persons](#) or [stateless persons](#) from falling victim to human trafficking or in providing protection and assistance to those at risk of becoming victims, in collaboration with several organizations -

including the [International Organization for Migration \(IOM\)](#). In 2020, UNHCR and IOM published an updated [Joint Framework on Developing Standard Operating Procedures for the Identification and Protection of Victims of Trafficking](#). Among other initiatives, UNHCR co-leads the Task Team on [Anti-Trafficking Global Protection Cluster](#) together with IOM and the [Heartland Alliance](#). The team is tasked with developing global guidance and capacity building on practical measures needed to address trafficking in persons in situations of internal displacement through the cluster response. The [Inter-Agency Coordination Group against Trafficking \(ICAT\)](#) is a policy forum mandated by the U.N. General Assembly to improve international cooperation and coherence in approaches to trafficking in persons. See [the ICAT Toolkit on Evaluating Counter Trafficking Programs. Harnessing accumulated knowledge to respond to trafficking in persons.](#)

5.2. 1969 [OAU Convention Governing the Specific Aspects of Refugee Problems in Africa](#)

5.3. 1984 [Cartagena Declaration on Refugees](#) ("*Declaración de Cartagena sobre los refugiados*"), adopted at the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia.

6. United Nations Conventions on Statelessness

6.1. 1954 - [Convention relating to the Status of Stateless Persons](#)

6.2. 1961 - [Convention on the Reduction of Statelessness](#)

7. Internally displaced persons

7.1. 1998 [Guiding Principles on Internal Displacement](#)

7.2. 2009 [African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa](#) - Kampala Convention. The only international treaty explicitly protecting IDPs.

8. International Labor Organization (ILO) Conventions on Forced Labor

8.1. [Forced Labour Convention](#), 1930 (No. 29)

8.2. [Abolition of Forced Labor Convention](#), 1957 (No. 105)

8.3. [2014 Protocol to the Forced Labour Convention](#), 1930

8.4. [Worst Forms of Child Labor Convention](#), 1999 (No. 182)

8.5. [Domestic Workers Convention](#), 2011 (No. 189)

The ILO, in cooperation with the OECD, IOM, and UNICEF, under the umbrella of [Alliance 8.7](#), has published an excellent 2019 Report ["Ending Child Labor, Forced Labor, and Human Trafficking in Global Supply Chains."](#)

See the ILO ["Judges, prosecutors and legal aid practitioners' training on forced labor. Facilitator's guide"](#) (2019).

9. International instruments against human trafficking

9.1. 1949 [UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#)

9.2. 2000 [Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children](#), supplementing the United Nations Convention against Transnational Organized Crime ([Palermo Protocol](#)).

See the excellent UNODC Report. [Female Victims of Trafficking for Sexual Exploitation as Defendants. A Case Law Analysis](#). 124 p.

9.3. 2005 [Council of Europe Convention on Action against Trafficking in Human Beings](#) (CETS 197)

9.4. 2008 [European Convention on the Adoption of Children](#) (revised) (CETS 202).

9.5. 2011 [Directive 2011/36/EU](#) of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims.

9.6. 2015 [Council of Europe Convention against Trafficking in Human Organs](#), (CETS 216, Santiago de Compostela Convention).

Let us also emphasize the role and responsibility of [doctors](#) to avoid a [merchandization of](#) the human body.

9.7. [ASEAN Convention Against Trafficking in Persons, Especially Women and Children](#)", of 22 November 2015. See the ASEAN [Plan of Action](#).

10. International criminal law instruments against slavery

10.1. 1998 [Statute of the International Criminal Court](#):

Art. 7, 1, g: slavery as a [crime against humanity](#);

Art. 8, 2, b, xxii: sexual slavery, forced prostitution as [war crimes](#);

Art. 8, 2, c, vi: rape, [sexual slavery](#), forced prostitution as a grave breach of Article 3 common to the four Geneva Conventions of 1949;

Art. 8, 2, c, vii: conscripting or enlisting children under the age of 15 years into the armed forces or armed groups or using them to participate actively in hostilities.

10.2. 1993 [Statute of the International Criminal Tribunal for the former Yugoslavia](#) (Art. 2 "[Graves breaches of the Geneva Conventions of 1949](#)"; 5, c) "[Enslavement](#)")

10.3. 1994 [Statute](#) of the [International Criminal Tribunal for Rwanda](#) ("Crimes against humanity": Art. 3, c) and "Violations of Article 3 common to the Geneva Conventions and Additional Protocol II": Art. 4, especially e) "enforced prostitution").

11. Customary, imperative character of the prohibition of slavery

The International Court of Justice, in the [Barcelona Traction](#) case (1970), noted the *erga omnes* character, binding on all States and requiring their cooperation in implementation (*Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*), Judgment, *I.C.J. Reports 1970*, p. 3 (paras. 33 and 34).

12. Slavery contributes to national, regional and international insecurity

The UN Security Council, in a [Statement by the President of the Security Council of 16 December 2015 - S/PRST/2015/25](#), notes that "trafficking in persons undermines the rule of law and fosters other forms of transnational organized crime, which can exacerbate conflict and foster insecurity." Also noteworthy are several Council resolutions: [2242\(2015\)](#); [2331\(2016\)](#); [2388 \(2017\)](#), [2437 \(2018\)](#), [2491 \(2019\)](#), [2546 \(2020\)](#).

13. The complexity of international standards, as well as the small number of cases prosecuted in the courts, demonstrates the need to [move beyond criminalization](#): a **multidisciplinary global mobilization of a wide range of stakeholders** is needed for the effective eradication of this 21st century scourge.

Two international coalitions led, respectively in [1997](#) and [1998](#), to the adoption of the [Ottawa Convention](#) and the [Statute of the International Criminal Court](#) in Rome. **It is a similar coalition of States, international organizations, humanitarian organizations, NGOs and public figures that should lead to an awareness of the value of these instruments of international law against all forms of contemporary slavery and the urgent need to implement them.**

14. A replication of the successes of the environmental protection movement by the contemporary anti-slavery movement, or even an alliance between the two, could create powerful synergies, including getting Governments to [crack down more effectively on contemporary forms of slavery](#) and getting [the private sector](#) to [keep a close eye on](#) its [supply chains](#) to [ensure that](#) they are [free of slave labor](#).

15. The link between the protection of the life and dignity of every human being and the protection of the environment should be emphasized: it is too often through [forced labor that the most serious destruction of the environment](#) take place. It is an approach of an [integral ecology](#), which does not exclude the [human being](#), which incorporates the value of human work, that the Order of Malta advocates, in the spirit of the Encyclicals "[Laborem Exercens](#)" (1981), "[Sollicitudo Rei Socialis](#)" (1987), "[Centesimus Annus](#)" (1991), "[Laudatosi](#)" (2015), and "[Fratelli Tutti](#)" (2020).

16. The contribution of the different religions to the eradication of slavery deserves to be noted: it is done mainly at two levels:

- through **appeals by leaders**, such as the "[Joint Declaration of Religious Leaders against Modern Slavery](#)", of December 2, 2014, where, for the first time in history, leaders of the Catholic, Anglican and Orthodox Christian communities, as well as Buddhist, Hindu, Jewish and Muslim, jointly commit themselves to a common fight against slavery; and the [Document on Human Fraternity for World Peace and Living Together](#) (Abu-Dhabi, February 2019): "Faith leads a believer to see in the other a brother or sister to be supported and loved. Through faith in God, who has created the universe, creatures and all human beings (equal on account of his mercy),

believers are called to express this human fraternity by safeguarding creation and the entire universe and supporting all persons, especially the poorest and those most in need”.

- through **concrete actions on the ground** to [identify](#), [raise awareness](#), [protect](#), rehabilitate and [reintegrate the victims](#) of contemporary slavery.

17. Towards a comprehensive approach: eradicating contemporary slavery will require stronger [implementing laws](#), more [court decisions](#), and [national plans](#). It will be [facilitated](#) by [effective public awareness campaigns](#), [interdisciplinary symposiums](#), [training of judges](#), lawyers, [parliamentarians](#), [police](#) and border control agents, military, medical personnel, [tourism personnel](#), [religious leaders](#). There are many actors who need to [work together](#) in formal and informal ways: different parts of [public administration](#), different parts of [civil society](#): [police](#), [judges](#), journalists, [universities](#) and [libraries](#), associations and foundations contributing to the [control of malicious internet sites](#), [supply chains](#), and [financial transfers](#). In the face of powerful and well-organized [transnational criminal networks](#), generating illicit profits amounting to 150 billion dollars annually, Governments, international organizations and civil society must work effectively together in concrete ways.

18. The Sovereign Order of Malta has for several years spoken out through its highest officials (Grand Master, Grand Chancellor, Grand Hospitaller) against contemporary slavery. It looks forward to continue its collaboration with the Special Rapporteur and with all stakeholders, in action and in law.