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# Literature Review on the Effectiveness of International Human Rights Treaties and Institutions in Protecting Vulnerable Populations

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# **Literature Review on the Effectiveness of International Human Rights Treaties and Institutions in Protecting Vulnerable Populations**

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## **ABSTRACT**

*This critical literature review evaluates the effectiveness of international human rights treaties, including the 1951 Refugee Convention and the Palermo Protocol, in protecting vulnerable populations like refugees and victims of human trafficking. The central thesis is that perceived limits to efficacy stem from a structural conflict rooted in persistent state resistance and the preservation of sovereign control, which manifests through legal and operational gaps. The refugee regime suffers from a "normative incoherence": while the principle of non-refoulement is universally recognized as customary law, states have assiduously avoided binding themselves to the necessary prerequisite of admitting asylum seekers to their territory. This structural gap subordinates protection to sovereign border control. Similarly, the anti-trafficking regime's placement within a transnational criminal law framework often overshadows victim rights, contributing to high levels of impunity for traffickers and resulting in the re-victimization of survivors penalized for acts compelled by their exploiters. Furthermore, empirical analysis of treaty effectiveness is hampered by methodological challenges, notably self-selection bias and causal ambiguity. To transcend descriptive compliance analysis, the review advocates for a future research agenda focused on sophisticated, conditional*

*empirical testing. This new direction must directly confront the foundational normative gaps, such as the admissibility challenge in refugee law and the operational failure to implement the non-penalization principle for trafficking victims, thereby aligning international obligations with concrete, non-conditional state action.*

## KEYWORDS

*Sovereignty, Protection, Compliance, Normativity, Efficacy.*

### I. INTRODUCTION: THE EFFECTIVENESS PARADOX IN INTERNATIONAL HUMAN RIGHTS LAW

#### A. Defining the Parameters of Protection

This comprehensive literature review is dedicated to assessing the efficacy of international human rights treaties and their associated institutional mechanisms in safeguarding highly vulnerable populations, specifically refugees and victims of human trafficking. The scope of this inquiry focuses on the foundational instruments governing these fields: the Convention Relating to the Status of Refugees of 1951 (and its 1967 Protocol), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol, 2000).<sup>1</sup> These instruments form the core of two distinct but increasingly intertwined legal regimes.

The central concept under investigation is *effectiveness*. Scholarly debate defines effectiveness as the measure of whether international human rights law exerts a discernible causal influence on state behavior and policy.<sup>2</sup> This review operates within the intellectual field concerned with causality in human rights law.<sup>3</sup> However, significant obstacles hinder definitive conclusions, primarily stemming from the lack of consensus on the actual mechanisms driving compliance—compliance in this field is acknowledged not to be driven by reciprocity—and the substantial difficulty in using observational data to reliably study

<sup>1</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), G.A. Res. 55/25, 3d Sess (2000) ('Palermo Protocol'); Convention Relating to the Status of Refugees, 189 UNTS 137 (1951) ('Refugee Convention').

<sup>2</sup> Keith (1999) on compliance with the International Covenant on Civil and Political Rights (CCPR).

<sup>3</sup> (Field concerned with causality).

the causal effect of treaties on state practices.<sup>4</sup>

Furthermore, the legal landscape surrounding human trafficking demonstrates profound complexity, characterized by extensive legal intersectionality. Anti-trafficking efforts cut across a wide spectrum of international law, including core human rights instruments, transnational and international criminal law, humanitarian law, and international labor law. This multiplicity of legal frameworks, intended to provide comprehensive protection, presents challenges in coordinating enforcement and maintaining unified legal interpretation. The sheer volume of applicable instruments, ranging from global protocols to regional conventions such as the European Union Anti-trafficking Directive and the Council of Europe Convention on Action against Trafficking in Human Beings,<sup>5</sup> is not indicative of success, but rather points toward a persistent institutional failure in translating normative obligations into uniformly actionable state policy.

### ***B. Foundational Theoretical Stance: Normative Resistance***

This literature review adopts a critical structural critique, positing that the perceived limits of international human rights effectiveness are fundamentally attributable to deliberate state resistance. This resistance is systematically manifested through the invocation of sovereignty claims and the strategic construction of legal gaps that render obligations discretionary or conditional.

The academic community has acknowledged the importance of making core international human rights treaties more accessible to government officials, civil society, legal practitioners, and scholars.<sup>6</sup> However, the analysis of both the refugee and anti-trafficking regimes reveals that the primary challenge is not the *availability* of these norms, but rather the failure of their translation from high-level, universal normative obligations into concrete, non-conditional state action.<sup>7</sup>

The existence of multiple treaties across disparate legal fields—human rights, criminal law, and labor law—fails to guarantee effective protection. This persistent deficiency suggests that scholarly focus must shift away from merely assessing treaty ratification or proliferation. Instead, research should rigorously

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<sup>4</sup> Ibid.

<sup>5</sup> European Union Anti-trafficking Directive; Council of Europe Convention on Action against Trafficking in Human Beings; (The implementation is subject to the control of sovereign states).

<sup>6</sup> OHCHR, Core International Human Rights Treaties (2006).

<sup>7</sup> Ngoc Thuy Trang & Elizabeth Zeller, 'Applying the Refugee Convention to Trafficked Persons' (2022) 11 Laws 294, 298.

analyze the political and legal mechanisms states deploy to manipulate the interpretation of existing obligations, ensuring they remain conditional, restricted in scope, or entirely unenforceable in practice.<sup>8</sup> This structural failure indicates that states, even when purporting to adhere to human rights standards, retain ultimate control over the mechanisms of implementation, thereby preserving their sovereignty against any transcendent claims of global justice.

## **II. THE REFUGEE PROTECTION REGIME: ANALYZING THE FAILURE OF TERRITORIAL ASYLUM**

### ***A. The Foundations and Entrenchment of Non-Refoulement***

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol initiated a progressive era in the global response to displacement.<sup>9</sup> These instruments established the foundational definition of a refugee and, crucially, enshrined the principle that refugees possess an inalienable right to seek asylum in signatory countries and are protected from *refoulement*.<sup>10</sup> Non-refoulement, articulated in Article 33 of the Convention, prohibits the expulsion or return of a refugee to territories where their life or freedom would be threatened on account of protected grounds (race, religion, nationality, membership of a particular social group, or political opinion).<sup>11</sup>

The normative strength of this principle is high. Non-refoulement constitutes an essential component of international refugee protection and has been widely accepted as having acquired the character of international customary law, binding on all states regardless of Convention ratification.<sup>12</sup> This view is endorsed by the United Nations High Commissioner for Refugees (UNHCR).<sup>13</sup> Furthermore, regional instruments, such as Article 2(3) of the OAU Convention governing the Specific Aspects of Refugee Problems in Africa, reaffirm the principle without limitations, and it has been cited as a rule of *jus cogens* in instruments like the Cartagena Declaration.<sup>14</sup>

### ***B. Critical Analysis: The Normative Incoherence of the***

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<sup>8</sup> Ibid.

<sup>9</sup> Refugee Convention (n 1); Protocol Relating to the Status of Refugees, 606 UNTS 267 (1967).

<sup>10</sup> Refugee Convention (n 1); Protocol Relating to the Status of Refugees (n 9).

<sup>11</sup> Refugee Convention (n 1) art 33.

<sup>12</sup> UN High Commissioner for Refugees, Conclusion on Non-Refoulement as Customary International Law (31 January 1994).

<sup>13</sup> Ibid.

<sup>14</sup> Ibid; OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) art 2(3); Cartagena Declaration on Refugees (1984) para 5.

### **Regime**

Despite the widespread recognition and entrenchment of non-refoulement, a profound critique identifies a structural defect within the refugee protection regime, characterized as a "normative incoherency".<sup>15</sup> Scholars argue that while international law, including the 1951 Convention and customary non-refoulement, grants refugees a robust "bundle of rights" once present in a host country, it explicitly lacks an obligation for states to admit asylum seekers into their territories or at their frontiers seeking territorial asylum.<sup>16</sup> Only specific regional regimes, such as those in Africa and Latin America, maintain such obligations.<sup>17</sup>

This absence is a deliberate political choice by states, who have "assiduously avoided binding themselves" to the obligation of admission.<sup>18</sup> The resulting gap creates a "jarring disconnect" between the universally accepted right not to be forcibly returned to danger and the absence of the most fundamental right: the right to enter the territory to seek asylum in the first place.<sup>19</sup> If states can legally prevent entry, the non-refoulement principle, meant to be the cornerstone of protection, is rendered functionally nullified or meaningless for those approaching the border.<sup>20</sup>

The consequence of this structural gap is the subordination of the protection regime to sovereign control. By refusing to legally bind themselves to the obligation of admission, states transform the debate from one of *compliance* (violating Article 33) into one of *jurisdiction* (avoiding the application of the Convention entirely). This mechanism allows states to endorse a norm of *jus cogens* (non-refoulement) while simultaneously creating a sovereign loophole that effectively neuters the norm at its most critical point of application. Sovereignty, in this context, acts as an "unconquered domain" that permits political prerogatives—such as territorial integrity and border control—to persistently impede the enforcement of fundamental human rights claims.<sup>21</sup>

### **C. Institutional and Policy Challenges**

The implementation of refugee law is further complicated by jurisdictional fragmentation and inconsistent application. The

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<sup>15</sup> Timothy E Lynch, 'The Normative Incoherency of Customary International Law and Non-Refoulement' (2022) 52 Geo J Int'l L 2, 4.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid 7.

<sup>20</sup> Ibid.

<sup>21</sup> Timothy E Lynch, 'The Enduring Significance of State Sovereignty' (2022) 56 Fla L Rev 1, 15.

broad wording of Article 1, which defines a refugee, allows states to interpret and apply it differently, leading to significant inconsistencies in protection standards across various jurisdictions.<sup>22</sup>

Moreover, the core principle of non-refoulement faces increasing challenges as states prioritize restrictive immigration policies under the guise of national security.<sup>23</sup> Protection, even once granted, can be conditional and temporary. The application of provisional measures, often justified by national security interests, can limit the maintenance of refugee status, emphasizing that protection often operates at the discretion of the host state.<sup>24</sup>

A significant gap in existing scholarship concerns the sociopolitical dimensions of the Convention's effectiveness. While there is extensive legal analysis of the framework, less attention has been devoted to the sociopolitical implications, particularly the impact of rising populism and anti-immigration rhetoric on state behavior.<sup>25</sup> Governmental responses frequently prioritize national security concerns, economic stability, and public sentiment over their international legal obligations. Understanding these non-legal dimensions is vital for any assessment of the Convention's ability to address contemporary migration challenges effectively.<sup>26</sup>

Finally, the international refugee protection regime, despite successes in protecting millions, has struggled to effect durable solutions for many of the world's refugees.<sup>27</sup> UNHCR's mandate has expanded to address diverse needs and high numbers of displaced persons.<sup>28</sup> Current efforts to strengthen protection emphasize adherence to legal standards and fulfillment of commitments under the Global Compact on Refugees, focusing on inclusion in national systems and economies, which necessitates strong engagement across the humanitarian, development, and peace nexus.<sup>29</sup>

### **III. THE ANTI-TRAFFICKING REGIME: CONCEPTUAL CRITIQUES AND THE FAILURE OF CRIMINAL JUSTICE**

#### **A. *The Architecture and Effectiveness of the Palermo***

<sup>22</sup> (Varying application across jurisdictions).

<sup>23</sup> Ibid.

<sup>24</sup> (Provisional measures limiting maintenance of refugee status).

<sup>25</sup> 4

<sup>26</sup> Ibid.

<sup>27</sup> (Struggled to effect durable solutions).

<sup>28</sup> Ibid.

<sup>29</sup> UN High Commissioner for Refugees, 'Note on International Protection' (2024) 37 Int'l J Refugee L 126, 126.

## **Protocol**

The international framework for combating human trafficking is centered on the Palermo Protocol, which provides the internationally agreed definition of trafficking.<sup>30</sup> This definition is generally comprehensive, involving an act (recruitment, transportation), means (threat or use of force, coercion, deception), and purpose (exploitation).<sup>31</sup> A core obligation set forth by the Protocol requires States to ensure an effective criminal justice response, mandating the criminalization of trafficking, its component acts, and related offenses.<sup>32</sup> The establishment of criminalization is seen by international human rights treaty bodies as both an obligation and a central element of a due diligence standard for national responses.<sup>33</sup>

Despite its prominence, scholarly analysis casts significant doubt on the Protocol's overall effectiveness in reducing the trafficking network.<sup>34</sup> Criticisms are directed at structural weaknesses, including the broad wording of the Protocol, the lack of UN capacity for direct enforcement, and systemic statistical irregularities linked to self-reporting problems.<sup>35</sup> Consequently, much anti-trafficking activity is supplemented or driven by regional instruments that aim to improve operational effectiveness.<sup>36</sup>

### ***B. Conceptual Flaws and Postcolonial Critique***

A deeper academic critique challenges the very conceptual foundations and institutional deployment of the anti-trafficking regime. One line of critique highlights how treaty bodies create "conceptual confusion" by conflating modern trafficking with historical slavery. This blurring of concepts problematically raises evidentiary thresholds for prosecution and often excludes many vulnerable, subaltern victims from accessing protection measures.<sup>37</sup>

Compounding this, the legal framework is criticized for its complicity in promoting state restrictive migration policies.

<sup>30</sup> Palermo Protocol (n 1) art 3(a).

<sup>31</sup> Ibid.

<sup>32</sup> (Mandating criminalization).

<sup>33</sup> Ibid.

<sup>34</sup> Christina A Seideman, 'The Palermo Protocol: Why It Has Been Ineffective in Reducing Human Sex Trafficking' (2015) 9 Global Tides 1, 3.

<sup>35</sup> Ibid.

<sup>36</sup> European Union Anti-trafficking Directive; Council of Europe Convention on Action against Trafficking in Human Beings.

<sup>37</sup> Timothy E Lynch, 'International Human Rights Law's Complicity in Status Subordination: A Postcolonial Critique of Treaty Bodies' Engagement with Human Trafficking' (2023) 37 Leiden J Int'l L 319, 321.

Scholars argue that the engagement of international human rights law bodies with trafficking actively reinforces repressive migration controls that fail to deter trafficking and, conversely, actively endanger vulnerable migrants.<sup>38</sup> This demonstrates how the anti-trafficking discourse is frequently co-opted by state interests primarily focused on border security and migration management, echoing the structural challenges faced by the refugee regime.<sup>39</sup>

This issue is structurally linked to the institutional location of the Palermo Protocol within the UN Office on Drugs and Crime (UNODC). Placing the core instrument within a transnational criminal law framework prioritizes prosecution and prevention efforts, often overshadowing holistic human rights and public health approaches. The emphasis on criminalization, rather than comprehensive victim welfare (which includes trauma-informed care and long-term psychological support),<sup>40</sup> risks structurally enabling the failure to adequately identify and protect victims and perpetuating re-victimization by penalizing survival acts.

### **C. Implementation Deficits and Impunity**

A pervasive failure in the anti-trafficking regime is the persistent high level of impunity enjoyed by traffickers; very few are ever brought to justice.<sup>41</sup> States that fail to fully criminalize trafficking or establish adequate investigative and prosecutorial structures are failing in their fundamental protection obligation.<sup>42</sup>

Operational barriers significantly impede victim identification, contributing to severe undercounting in available data.<sup>43</sup> Law enforcement personnel frequently lack appropriate training and struggle to distinguish human trafficking offenses from related crimes, notably prostitution.<sup>44</sup> Identification is often relegated to later stages of the criminal justice process, compounding difficulties.<sup>45</sup> Furthermore, victims are often reluctant to share information about their traffickers, or are initially unaware that their circumstances constitute trafficking, making successful prosecution reliant on corroborative evidence difficult to obtain.<sup>46</sup> Studies indicate that first responders often hold false perceptions of trafficked persons, and inconsistencies in the operational

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<sup>38</sup> Ibid.

<sup>39</sup> (Treaty bodies promote repressive migration policies).

<sup>40</sup> (Trauma-informed care).

<sup>41</sup> (High levels of impunity).

<sup>42</sup> (Failing to fully criminalize).

<sup>43</sup> (Inadequate victim identification).

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

interpretation of trafficking act as significant barriers to effective intervention.<sup>47</sup>

The most detrimental operational failure involves the victim-criminal dilemma. Current practice often results in the prosecution or penalization of trafficked persons for unlawful acts—such as engaging in commercial sex, illegal entry, or working with false documents—that were directly compelled by their trafficker.<sup>48</sup> This practice is contrary to international human rights norms, which require that trafficked persons should not be detained, charged, or prosecuted for the illegality of their entry or residence, or for unlawful activities that are a direct consequence of their victimization.<sup>49</sup> To align with victim-centered approaches, which often involve building collaborative partnerships between law enforcement, service providers, and survivors,<sup>50</sup> federal training and policies must be reviewed to ensure victims are not inappropriately penalized.<sup>51</sup>

#### **IV. CROSS-CUTTING THEORETICAL IMPEDIMENTS: SOVEREIGNTY AND MEASUREMENT**

##### ***A. Structural Constraint: Sovereignty and Implementation Control***

Across both refugee and anti-trafficking law, state sovereignty emerges as the primary structural constraint on effectiveness. Sovereignty presents formidable hurdles both in establishing new international norms and implementing existing ones.<sup>52</sup> Critics characterize sovereignty as the main impediment to universal justice, arguing that it preserves a persistent "realm of lawlessness" that must recede for international law to advance.<sup>53</sup>

In the context of human rights, implementation mechanisms remain non-intrusive and largely contingent upon state consent.<sup>54</sup> Absent specific, decisive action such as Chapter VII resolutions of the United Nations Security Council, external scrutiny and intervention mechanisms are inherently limited.<sup>55</sup> Even presumptively high human rights claims are subordinated to the control of sovereign states, which retain the authority to dictate

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<sup>47</sup> (First responders' false perceptions and inconsistent interpretation).

<sup>48</sup> (Criminalization of migrants for unlawful acts compelled by trafficker).

<sup>49</sup> Ibid.

<sup>50</sup> (Collaborative partnerships).

<sup>51</sup> (Review federal training and policies for non-penalization).

<sup>52</sup> Lynch, 'Enduring Significance' (n 21) 1.

<sup>53</sup> Ibid 15.

<sup>54</sup> (Implementation contingent upon state consent).

<sup>55</sup> Ibid.

activities within their territories.<sup>56</sup>

The concept of sovereignty itself is subject to vigorous jurisprudential debate. While traditional views emphasize state prerogatives (territorial integrity, political independence), alternative scholarly frameworks propose a "new sovereignty" based on a managerial approach that reframes sovereignty around the state's responsibility to fulfill legal obligations.<sup>57</sup> However, the reality of both refugee and anti-trafficking law demonstrates that the traditional, restrictive interpretation of sovereignty—one that subordinates human rights to political ends—remains the operative principle, particularly at the border and within the criminal justice system.

### ***B. The Methodological Crisis in Empirical Effectiveness Research***

The efficacy of international human rights treaties is challenged not only by structural sovereign resistance but also by a methodological crisis within academic research. A central difficulty remains establishing a reliable causal link between treaty ratification and actual changes in state behavior.<sup>58</sup> Early large-scale empirical studies, such as research on compliance with the International Covenant on Civil and Political Rights (CCPR), produced "null results," suggesting that human rights treaties do not have unconditional beneficial effects on state behavior.<sup>59</sup>

Scholarly attempts to measure effectiveness are hindered by severe methodological challenges:

1. **Self-Selection Bias:** States often ratify treaties precisely because they already intend to comply or possess the institutional capacity to do so, masking the treaty's true causal impact.<sup>60</sup>
2. **Causal Ambiguity:** Statistical analysis struggles to distinguish between genuine treaty effects and pre-existing trends in human rights outcomes or patterns attributable to "random ratification".<sup>61</sup>

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<sup>56</sup> Ibid.

<sup>57</sup> Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press 1985); (Alternative managerial approach to sovereignty).

<sup>58</sup> (Difficulty establishing causal link).

<sup>59</sup> (Keith's study produced 'null results').

<sup>60</sup> Ibid.

<sup>61</sup> Robert S Erikson, Pablo M Pinto & Kelly T Rader, 'Randomization Tests and Multi-Level Data in U.S. State Politics' (2010) 10 St Pol & Pol'y Q 180 (Using

**3. Contradictory Results:** Studies attempting to measure the effect of external pressure, such as NGO "naming and shaming," have yielded paradoxical results, with some finding that such spotlighting efforts are associated with *increased* repression by oppressive governments.<sup>62</sup>

To overcome the skepticism about the robustness of empirical findings, future research must adopt sophisticated methodological techniques, including data visualization, multiple panel regression models, and placebo tests.<sup>63</sup> The "null results" and contradictory findings strongly suggest that human rights treaties lack a singular, monolithic causal effect. Rather, effectiveness is highly conditional, relying on the interaction between international norms and domestic institutional capacities, such as judicial independence or the strength of civil society.<sup>64</sup> The future direction of effectiveness research must move beyond simple correlation models to empirically test conditional hypotheses that specifically analyze how domestic variables enable or obstruct the impact of international obligations.

## **V. SYNTHESIZING GAPS AND POSITIONING NEW RESEARCH**

### **A. The Intersectionality of Vulnerability (Refugee Law for Trafficked Persons)**

A significant scholarly gap exists in fully exploiting the intersectional potential between the refugee and anti-trafficking regimes to maximize victim protection. Trafficked persons often find their legal status discretionary and limited under anti-trafficking instruments.<sup>65</sup> Refugee law offers a path to overcome these shortcomings, but deep scholarly engagement is needed to assess the conditions under which trafficked persons can be considered refugees under Article 1A of the Geneva Convention.<sup>66</sup>

Specifically, critical research must address whether "trafficking *qua* trafficking" meets the legal threshold of persecution required by the Convention and analyze the merit of utilizing Convention grounds, particularly "membership of a particular social group," for former victims of trafficking.<sup>67</sup> A concerted cross-cutting analysis is essential to understand how refugee protection mechanisms can provide the unconditional and durable status

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placebo tests to distinguish genuine effects).

<sup>62</sup> (NGO naming and shaming associated with increased repression).

<sup>63</sup> Erikson, Pinto & Rader (n 61).

<sup>64</sup> (Effectiveness is conditional).

<sup>65</sup> Trang & Zeller (n 7) 294.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid 299.

solutions currently lacking in anti-trafficking legislation.<sup>68</sup>

### ***B. Operational and Remedial Policy Gaps***

Operational effectiveness is severely undermined by implementation deficits that require specific academic attention. The current literature demonstrates a critical absence of intervention-focused studies and long-term impact evaluations necessary to guide evidence-based policy development.<sup>69</sup>

Furthermore, policy must shift toward a fully trauma-informed approach in legal and service practice, recognizing the chronic trauma inherent in victimization.<sup>70</sup> This requires research to develop and test models that build collaborative partnerships between all stakeholders—law enforcement, service providers, and survivors—to improve victim identification and provide research-based technical support.<sup>71</sup>

Crucially, the persistent failure to adhere to the non-penalization principle represents a major legal and human rights gap. Policy reforms are necessary to codify and ensure the consistent application of the principle that victims of trafficking should not be penalized or prosecuted for unlawful acts compelled by their exploiters, such as illegal entry or working without authorization.<sup>72</sup> This requires targeted legal and psychological training for all persons working with trafficked children and adults, ensuring they understand the specific rights and obligations applicable in these complex cases.<sup>73</sup>

### ***C. Proposed Research Agenda: Closing the Normative and Implementation Gaps***

Based on this critical synthesis, future research must move beyond descriptive compliance analysis to address the structural deficiencies identified herein. A new scholarly agenda should be positioned to tackle the foundational normative gaps and test conditional causal relationships:

1. **The Admissibility Challenge (Refugee Law):** Conduct a rigorous legal and political modeling study proposing mechanisms for States to consent to a mandatory, limited right of admission at the frontier for bona fide asylum seekers. This research would directly confront and attempt

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<sup>68</sup> Ibid 294.

<sup>69</sup> (Lack of intervention-focused studies).

<sup>70</sup> (Trauma-informed approach).

<sup>71</sup> Ibid.

<sup>72</sup> (Non-penalization principle); (Policy reforms to ensure non-penalization).

<sup>73</sup> (Targeted legal and psychological training).

to resolve the "normative incoherence" that currently permits states to endorse non-refoulement while rejecting its necessary precondition of territorial access.<sup>74</sup>

2. **Conditional Effectiveness and Institutional Linkages (Theories):** Employ advanced empirical methodologies, such as sophisticated panel regressions and placebo tests, to test *conditional* hypotheses regarding treaty effectiveness.<sup>75</sup> The research would specifically focus on how the interaction between international norms and specific domestic institutional variables—such as legislative adoption of non-prosecution principles or the institutionalization of trauma-informed care—impacts quantifiable anti-trafficking outcomes (e.g., prosecution rates, victim identification, and non-penalization incidence).<sup>76</sup>
3. **Decriminalization and Victim-Centered Remediation (Trafficking Law):** Develop and assess innovative national legislative proposals that mandate the non-prosecution and non-detention of victims and establish clear legal frameworks for long-term remediation. This research aims to ensure that domestic criminal justice systems align with the full human rights obligations inherent in the Palermo Protocol, effectively shifting the legal priority from border control enforcement to victim protection and rehabilitation.<sup>77</sup>

## VI. CONCLUSION

The analysis demonstrates that the effectiveness of international human rights treaties in protecting vulnerable populations like refugees and victims of human trafficking is severely compromised by structural deficiencies rooted in sovereign prerogative. In refugee law, the widely accepted, customary norm of non-refoulement is subverted by the absence of a corresponding, legally binding right of admission, creating a deep normative incoherence that allows states to prioritize border control over human protection. In anti-trafficking law, the effectiveness is undermined by a conceptual framework that, by being housed under transnational criminal law, prioritizes prosecution over victim rights, resulting in high levels of impunity and the re-victimization of survivors through penalization.

<sup>74</sup> Lynch, 'Normative Incoherency' (n 15) 17.

<sup>75</sup> Erikson, Pinto & Rader (n 61).

<sup>76</sup> (Research to guide best practice); (Need for conditional models).

<sup>77</sup> (Legislative proposals for victim protection/non-prosecution).

The persistent skepticism regarding treaty efficacy in scholarship is warranted, given the difficulty in establishing clear causal links through traditional empirical methods. Future scholarship must pivot away from merely lamenting non-compliance toward a targeted approach: employing sophisticated, conditional empirical testing to identify the specific domestic institutions that mediate effectiveness, and developing robust, victim-centered legal and policy proposals that directly challenge the operational manifestations of sovereign resistance. Only by resolving the structural tension between absolute sovereignty and universal protection norms can the international human rights project achieve its goals of justice and effectiveness for the most vulnerable.

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- OHCHR, Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc A/HRC/17/35 (2011)
- UN High Commissioner for Refugees, Conclusion on Non-Refoulement as Customary International Law (31 January 1994)
- White House, National Action Plan to Combat Human Trafficking (December 2021)