

Trafficking as Human Rights Violation

Trafficking in human beings affects almost every country in the world and seemingly resists various efforts to curb it. Until recently most of the focus has been on its dimension as transnational crime, affecting regional security and on its relation to irregular migration and prostitution. However, this most horrendous practice has also devastating implications for the human rights of the victims. Furthermore, trafficked persons are deprived of their human rights because authorities tend to treat trafficked persons as criminals rather than as victims. This is related to the often restrictive government approach which focuses on combating illegal migration, illegal prostitution and organized crime, while the need for prevention programs and victims rights protection does not receive adequate attention.

It has been pointed out several times that among the most significant limitations in current law and policy is the failure to treat trafficking as a serious human rights issue. Hence, the human rights dimension of trafficking in human beings unquestionably requires further attention and elucidation, not only as regards more theoretical considerations about the human rights violations and related state obligations but also concerning strategies to be developed to fight this scourge.

It needs in any event to be highlighted that trafficking in human beings has already received considerable attention from various intergovernmental and non-governmental organizations. Indeed, as well the UN, the IOM, the OSCE, the Council of Europe as the EU have acknowledged the need to prioritize the fight against this most horrendous crime, while both broadly based human rights NGO's -like human rights watch – and smaller, narrowly focused NGO's – like the Foundation against Trafficking in Women, pay considerable attention to this phenomenon.

While it is absolutely a problem threatening the entire world, it is not only particularly widespread in Asia and Africa but it also gains increasing prominence in the framework of the ever expanding 'economic stronghold' of the European Union. Indeed, most old EU member states are countries of destination while the recently acceded countries tend to be well known countries of origin and transit, which will increasingly also become countries of destination. Several of the South Eastern European countries that are still waiting to accede to the Union are similarly plagued by the phenomenon. It is in any event clear that the EU is increasingly marking the fight against trafficking of women as a priority, as was recently noticeable in the Treaty Establishing a Constitution for Europe.

Trafficking in human beings results in the violation of the rights of trafficked persons:

- ❖ Right to life;
- ❖ Right to access to professional healthcare;
- ❖ Right to dignity;
- ❖ Right to freedom from torture and rape;
- ❖ Right to freedom from forced labor, slavery and slave-like practices
- ❖ Right to healthy living and working conditions;
- ❖ Right to free movement for labor or other purposes.

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The General Assembly of the European Women Lawyers Association (EWLA), held from 17-18 March 2005, in Strasbourg, France, focusing on Access to Justice, has adopted the following:

**Resolution on Trafficking in Human Beings
regarding the future Council of Europe Convention on Action against Trafficking
in Human Beings**

EWLA takes note of the following:

1. Trafficking in human beings is recognized as a violation of human rights;
2. States have a duty under international human rights law to protect and respect the rights of individuals to exercise their human rights, investigate alleged violations of human rights, punish violators of human rights and provide effective remedies to victims of human rights violations;
3. **Trafficking is both a cause and a consequence of human rights violations.** Therefore the effective prevention and prosecution of trafficking is highly dependent upon the protection and promotion of the human rights of trafficked persons. The analysis of the issue of trafficking and the development of an effective response requires the integration of a human rights perspective. This implies that measures should be in conformity with existing obligations of States under international law;
4. The integration of a human rights perspective into anti-trafficking action is the only way to retain a focus on the trafficked person and to avoid that trafficking is simply reduced to a problem of migration, public order or crime;
5. The root causes of trafficking can be found in economic factors such as poverty, unemployment and indebtedness; social and cultural factors such as the demand, violence against women and gender discrimination; legal factors such as a lack of appropriate legislation to address these issues; political factors such as corruption in the public sector or armed conflicts; and international factors such as the growing feminization of labor migration, opposed to increasingly restrictive immigration policies of recipient countries;
6. The lack of rights and adequate legal protection of women, migrants and other vulnerable groups increases their susceptibility for trafficking and related forms of violence and abuse;
7. The willingness of trafficked persons to assist in prosecutions is critical for the effective detection, investigation and prosecution of traffickers. This willingness strongly depends on the availability of safety and privacy protection and assistance to victims and their general treatment by the police and judicial authorities. It is also related to the risk trafficked persons incur of being deported and/or arrested, detained or prosecuted for offences relating to their status of being trafficked, such as illegal border crossing, involvement in the sex industry or the use of false documents;
8. The absence of adequate procedural safeguards and assistance may prevent trafficked persons from reporting to the authorities and inadvertently expose them to further trauma and the risk of reprisals by traffickers, including the risk of being re-trafficked. Therefore, a neglect of victim issues is not only contrary to international human rights law, which obliges states to provide victims of human rights violations such as trafficking with access to adequate and appropriate remedies, but may also compromise the effective implementation of anti-trafficking legislation;
9. The recognition and protection of the rights of trafficked persons provide an important incentive to trafficked persons to report to the authorities and act as witnesses, and thus contribute significantly to achieving law enforcement objectives.