PROTECTING REFUGEES AGAINST HUMAN TRAFFICKING

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ABSTRACT

When governments are unwilling or unable to protect their citizens, individuals may suffer such serious violations of their personal rights. The hallmark of a refugee is the absence of protection by his own state. Refugees are at particular risk for human trafficking as a consequence of their vulnerable status. There are some instruments to protect refugee from human trafficking. In the frame of trafficking, refugees then have a double protection due to their status, first the Convention on the Status of Refugee, and second by the international instruments related to Human Trafficking. The principle of non-refoulement constitutes an essential component of international refugee protection and also embodied in some regional instruments. Providing temporary protection is a humanitarian and non-political act to react speedily to a crisis or disaster, including to prevent human trafficking on refugee. It is the duty and responsibility of all States to cooperate in all the fields in which international cooperation could be develop in solving international problems especially on refugee.

Keywords: refugee, human trafficking.

A. Introduction

In today’s world, more people are migrating for wide variety of reasons. A growing number of people move principally to escape the violence associated with political instability, the denial of human rights and lack of government protection in their home countries. Some of them leave their home because of natural disasters, armed conflicts, alien occupation and sort of.

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The International order is based on nation states and the nationals of a state are deemed to be under the protection of their state. When governments are unwilling or unable to protect their citizens, individuals may suffer such serious violations of their personal rights that they are willing to leave their homes, their friends, maybe even some of their family, to seek safety in another country. The hallmark of a refugee is the absence of protection by his own state. A refugee is a person legally determined to fit the definition found in the 1951 Convention relating to the Status of Refugees. The Refugee Convention states a person is a refugee when he or she is unwilling or unable to return to his or her country of origin "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion...".

When the United Nations (herein after the UN) came into being in 1945, the protection of refugees become a part of the formal programme of the UN. The General Assembly of the UN when adopted the Statute of the United National High Commissioner for Refugees (herein after UNHCR) in 1950 created an international agency of the UN to take over this function. This together with the 1951 Convention on the Status of Refugees which define who are refugees, establish international standards for the treatment of refugees, confer certain rights and duty of refugees, also enumerate the responsibility of the world community towards refugees.

According to UNHCR, trafficking risks for refugees are at ever-increasing levels worldwide. Refugees are at particular risk for human trafficking as a consequence of the devastating losses they have experienced, their precarious life situations until durable solutions become available and their vulnerable status.

Refugee status determination can be made by the UNHCR while in transit or in a camp or by the authorities of states that have acceded to the 1951 Convention and/or Protocol 1967 through asylum process. Asylum is the process by which a person enters a country and then asks for asylum from the government. The definition remains important because it refers to a specific group of people that have gone through a specific process.

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1. Article 1, 1951 Convention relating to the Status of Refugees.
Each country has a separate process for refugee intake, including further security checks, prior to their resettlement. It takes on average between 18 to 24 months and can take much longer. For example, of the 20 million refugees worldwide, less than 1 percent will be officially resettled, and of those, the United States takes about half.9

Immigration advocates and lawyers responded that entering to the country of asylum via a refugee determination is incredibly difficult. Those difficulties often puts refugees in desperate situations and the traffickers know it very well as exploitative opportunities. Traffickers know who they can and cannot target. Traffickers often provide schemes that lure in desperate people in desperate situations.

Refugees are in desperate situations and may be more likely to take chances and risks in order to find safety or to get to a different country. The journey of seek refuge is often more dangerous than the camps. Refugees often find themselves in camps while they await refugee status and the solutions. In many cases, refugees are not waiting out their time in situations of peace and safety. The forces of war and violence that drove them from their homes sometimes present in their places of temporary refuge, along with the criminal predators who thrive on human misery.

Many refugees live in situations where arms smuggling, drug smuggling, trafficking in women and children and the recruitment of child soldiers, mercenargeries and sexual violence in refugee camps are a daily reality.10 Some INGOs have found cases of child soldiers being recruited or kidnapped from refugee camps. Refugees can face bad conditions in camps, including the lack of sanitation facilities or inadequate medical treatment. Within refugee camps, the lack of law and order or police protection along with the presence of large numbers of helpless people create a pool of readily available supply for those who want to exploit them.11 This is why many displaced people and would-be refugees fall prey to human trafficking schemes.

The United Nations Trafficking Protocol, describes trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploit-
tion, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.\textsuperscript{12}

Siddharth Kara conclude that human trafficking proceeds through three stages.\textsuperscript{13} The first stage is acquisition, when the victim is brought into human trafficking through one of a wide range of means including deceit, sale by family, force or abduction, seduction or romance, or recruitment by former victims. The second stage is the movement of the victim across international borders, typically through some form of smuggling. And the final stage is the exploitation of the victim and the use of his or her labor, services or body organs.

According to the Refugee Campaign, human trafficking indicators are:\textsuperscript{14}

10. Under 18 and in prostitution.

As a subset within the broader flow of human migration, refugees are subject to dehumanizing practices in border enforcement, refugee camp management, labor, and domestic enforcement practices intended to discourage migration and curtail migrant rights. The distinctive protection challenges and risks that people face as refugees are vulnerability factors for human trafficking.\textsuperscript{15}

Human trafficking is an exploitation of vulnerability and refugees can be amongst the most vulnerable populations. For example, the EU police agency reported in early 2016 that around 10,000 of unaccompanied child refugees and migrants went missing since arriving in Europe. During this time according to German authorities, around 4,700 child refugees had been missing. It was estimated that human smugglers have taken advantage of hundreds of vulnerable refugees, in order to make a profit by exploiting refugee’s misery. It was reported in 2015 that human smugglers accumulated a record profit between £2,000,000,000 and £4,000,000,000 ($3,000,000,000-$6,000,000,000). Many refugees have little knowledge about asylum, therefore they are more likely to seek help from human smugglers, which is why


human smugglers made such a large profit off of refugees in 2015. As long as human trafficking remains low risk and high profit, traffickers will continue to exploit vulnerable people. 

In Turkey, Syrian refugee girls aged 15-20 are being sold as brides and prostitutes. Syrian refugees are being offered between 20-50 Turkish liras, amounting to an estimated US $7-$18, for their “services.” Child labor is a massive industry as well, with evidence of force and coercion against large numbers of trafficked refugee children. Recent studies found that nine out of ten Syrian refugees are below the poverty line. As of September 2015, 67 percent of refugees were in debt.

While being a victim of human trafficking normally does not suffice to establish a valid claim for refugee status, this does not exclude that, under specific circumstances, trafficked persons may be in need of international refugee protection. This could be the case, for instance, if the trafficking victim fears upon return repercussions by the perpetrators which would amount to persecution for one of the reasons contained in the 1951 Convention definition against which no effective national protection was available.

In connection with human trafficking, it is important to distinguish the phenomena of human trafficking from the phenomena of human smuggling. Human trafficking by definition is always involuntary because it occurs by prohibited coercive means. Human trafficking is a crime against an individual’s rights, where human smuggling is a crime against the integrity of a border. Another difference is that human trafficking is always for the purpose of obtaining someone’s labor services or causing them to engage in a commercial sex act. The crime of human smuggling does not seek to answer the question “why” the person is moved. Simply put, human smuggling is a crime of movement, and human trafficking is a crime of coercion. Human smuggling could be summarized as an act of facilitating illegal entry or as migrants exporting

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18 AMY DEWAR, REFUGEES AND MIGRANTS ARE FALLING VICTIM TO HUMAN TRAFFICKERS, AVAILABLE AT HTTP://AFFINITYMAGAZINE.US/2016/12/24/REFUGEES-AND-MIGRANTS-ARE-FALLING-VICTIM-TO-HUMAN-TRAFFICKERS.
20 UZAY BULUT, TURKEY: THE BUSINESS OF REFUGEE SMUGGLING, SEX TRAFFICKING, AVAILABLE AT HTTPS://WWW.GATESTONEINSTITUTE.ORG/3156/TURKEY-REFUGEES-SEX-TRAFFICKING.
schemes, while human trafficking could be referred to as slave importing operations.23

Unlike trafficking, smuggling does not entail coercion or deception, indicating that smuggling is a voluntary act on the part of those smuggled.24 In smuggling, the services of smugglers end when people being exploited and entails international movements. Smuggling always has a transnational element,25 whereas trafficking can take place both within and across national frontiers.26 Smuggling entails illegal entry into a given state, and entry can both be legal and illegal in case of trafficking. A victim of human trafficking could have entered the destination country on a valid passport and/or visa and this in no way should preclude identification as a victim of human trafficking.27

Based on those background, this paper will explore how to protect refugees from human trafficking and what are the UNHCR recommendations upon this issue.

B. "Anti-Trafficking" Instruments


Some regional instruments have already set to prevent human trafficking, amongst others are as follows: Brussels Declaration on Preventing and Combating Trafficking in Human Beings (2002), Council of Europe Convention on Action against Trafficking in Human Beings (2005), the United States Victims of Trafficking and Violence Protection Act (2000), the Council of Europe Convention on Action against Trafficking in Human Beings (2008), and Inter-American Convention on International Traffic in Minors,28 adopted at Mexico City in 1994. Others instruments are Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

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26 Article 2 of the Council of Europe Trafficking Convention is applicable to all forms of trafficking in human beings, whether national or transnational.
was adopted in 2002 by the South Asian Association for Regional Cooperation (SAARC).

1. Refugee Protection based on Non-refoulment Principle

According to the United Nations High Commissioner for Human Rights, the return of trafficked persons may not violate their established rights. International human rights law rejects arbitrary expulsion; any non-citizen lawfully within the country can be expelled only in accordance with the law. A non-citizen lawfully present is entitled to present reasons why she or he should not be expelled and these reasons must be reviewed by the competent authority. For trafficked persons who are not lawfully in the country, substantive and procedural guarantees against expulsion are much less clear and States generally retain a considerable degree of discretion in deciding whether and when to remove unlawful immigrants. However, one of the most important protections, potentially applicable to all non-citizens, relates to the principle of non-refoulment.29

Under the principle of non-refoulment, States are prevented from returning an individual to a country where there is a serious risk that she or he will be subject to persecution or abuse. This principle is well established in international law and the importance of protecting this principle in the context of measures to deal with trafficking is also widely accepted. Human rights treaty bodies and regional human rights courts have also confirmed that return which risks torture or cruel, inhuman or degrading treatment or punishment is contrary to international law.30

The prohibition on refoulment has traditionally been applied with reference to risks of persecution that come from States or their agents. More recently, there has been some recognition that the prohibition might also apply in certain situations where the fear of persecution comes from non-State actors and the relevant State is unable to provide appropriate or effective protection.

Refugees have come to considered the responsibility of the international community and given a distinct legal status.31 Recognition of refugee status could be an important component of the protection response for certain trafficking victims. Under the current international regime, refugees who arrive in an asylum state are solely the legal responsibility of that state. Any assistance received from other countries or the UNHCR is a matter of charity, not of obligation. This system of unilateral and undifferentiated State obligations is unfair, inadequate and ultimately unsustainable. As States have no reliable means of looking to

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30 Ibid.
31 Nirmala Chandrasaharan, Op. Cit., p. 84.
their neighbours or the international community at large for assistance and solidarity, there is a perverse logic to the option of simply closing borders and pre-emptively avoiding any responsibility for providing protection.32

One of the most serious risks that refugees face if they have not been identified and registered is their lack of legal status. When someone is refused his/her refugee status and knows that they are going to be deported, the temptation is immense to disappear in the hope of being able to stay illegally. Traffickers wait for this moment of crisis to offer their “help”.33

Governments normally guarantee the basic human rights and physical security of citizens. But when civilians become refugees this safety net disappears. That is why states may not forcibly return (refoulement) refugees to a territory where they face danger or discriminate between groups of refugees and is well-known as the principle of non-refoulement.

The principle of non-refoulement constitutes an essential component of asylum and international refugee protection. The essence of the principle is that a State may not oblige a person to return to a territory where he may be exposed to persecution. The wording used in Article 33 paragraph 1 of the 1951 United Nations Refugee Convention is “where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”. Since the purpose of the principle is to ensure that refugees are protected against such forcible return, it applies both to persons within a State’s territory and to rejection at its borders.

In addition to the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, the principle of non-refoulement is powerfully expressed in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (herein after Convention against Torture). Article 3 of Convention against Torture reaffirms that no State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. Furthermore, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.34

34 Article 3 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
On the other side, international humanitarian law provides the principle of non-refoulement additional support. The 1949 Geneva Convention relative to the Protection of Civilian Persons in Times of War defines “protected persons” as “those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict of Occupying Power of which they are not nationals”. In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear prosecution for his or her political opinions or religious beliefs.

Non-refoulement is also embodied in regional instruments such as Article II (3) of the 1969 Organisation of African Union Convention governing the Specific Aspects of Refugees Problems in Africa which declares that no person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened.

The central features of non-refoulement principle are present in Article 22 (8) of the 1969 American Convention on Human Rights which mentions that in no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.

In the Americas, regional protection of asylees goes back to the 1889 Montevideo Treaty on International Penal Law. Article 16 of 1889 Montevideo Treaty proclaims that political refugees shall be afforded an inviolable asylum; but it is the duty of the nation of refuge to prevent asylees of this kind from committing within its territory any acts which may endanger the public peace of the nation against which the offense was committed. Furthermore, Article 20 of the Treaty excludes extradition for political crimes. Each of these regional instruments has been widely accepted with no reservations recorded or attempted with respect to the basic principle of non-return.

The principle of non-refoulement is also covered at least in part by Article 3 of the 1950 European Convention on Human Rights, prohibiting torture or cruel, inhuman or degrading treatment or punishment. According to the European Commission on Human Rights, if conditions in a country are such that the risk of serious treatment and the severity of that treatment fall within the scope of the Article 3, a decision to deport,
extradite or expel an individual to face such conditions incurs the responsibility of the Contracting State which so decides.  

Those describes the general issue of state responsibility in regard to the removal of persons from state territory and is founded on the unqualified terms of the 1950 European Convention Article 3, read in conjunction with Article 1 of the same convention. Article 1 of the 1950 European Convention requires Contracting State to protect everyone within their jurisdiction from the real risk of such treatment.  

The UNHCR Executive Committee (herein after the Excom) has consistently endorsed the fundamental character of the principle of non-refoulement in its annual general and specific conclusions. The Excom noted that the non-refoulement principle was ‘generally accepted by states’ expressed concern at its disregard in certain case and reaffirmed that the fundamental importance of the observance of the principle of non-refoulement, both in the border and within the territory of the state, of persons who may be subjected to persecution if returned to their country of origin irrespective of wether of not they have been formally recognised as refugees.  

Similarily, the 1984 Cartagena Declaration is yet more categoric, not only endorsing a broader but also reiterating the importance of non-refoulement principle and non-rejection at the frontier as a ‘corner-stone’ of international protection, having the status of jus cogens.  

The principle of non-refoulement has acquired the status of jus cogens, that is, a peremptory norm of international law from which no derogation is permitted. The view that the principle of non-refoulement has become a rule of international customary law is based on a consistent practice combined with a recognition on the part of states that the principle has a normative character.  

2. Refugee Protection based on Temporary Protection  

Under the current international regime, refugees who arrive in an asylum state are solely the legal responsibility of that state. As such, the distribution of state responsibility towards refugees is based primarily on accidents of geography and the relative ability of states to control their borders. Any assistance received from other countries or the UNHCR is a matter of charity, not of obligation. This system of unilateral, undifferentiated state obligations is unfair, inadequate and ultimately unsustainable. As States have no reliable means of looking to

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30 Ibid.  
32 Executive Committee Conclusion No. 6 (1977).  
33 1984 Cartagena Declaration, Conclusion and Recommendation, iii, 5 and Annex 2 No. 7.  
their neighbours or the international community at large for assistance and solidarity, there is a false logic to the option of simply closing borders and pre-emptively avoiding any responsibility for providing protection.46

Nations at times offer ‘temporary protection’ when they face a sudden mass influx of people. In such circumstances people can be speedily admitted to safe countries, but without any guarantee of permanent asylum. Thus ‘temporary protection’ can work to the advantage of both governments and asylum seekers in specific circumstances. But it only complements and does not substitute for the wider protection measures, including refugee asylum, offered by the Convention.46

Temporary protections are solutions-oriented and time-limited that should not be prolonged and after a reasonable period of time UNHCR advocates that people benefiting from this should be given the right to claim full refugee status. Those rejected should, nonetheless, be allowed to remain in a country of asylum until it is safe to return.49

Temporary protection are pragmatic “tools” of international protection, reflected in States’ commitment and practice of offering sanctuary to those fleeing humanitarian crises. Temporary protection are complementary to the international refugee protection regime, being used at times to fill gaps in that regime as well as in national response systems and capacity, especially in non-Convention States.48

Temporary protection is an exceptional measure to provide displaced persons from other countries and unable to return to their country of origin, with immediate and temporary protection. It applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx that risks having a negative impact on the processing of claims.49

The authority of the state should define the decision-making procedure needed to trigger, extend or end temporary protection. Moreover, it foresees harmonised rights for the beneficiaries of temporary protection, including a residence permit for the entire duration of the protection (which can last from one year to three years) and guarantees for access to the normal asylum procedure.50

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48 Ibid.
3. Refugee Protection by Minimum Standards Treatment

Providing temporary protection is a humanitarian and non-political act. As part of a humanitarian response, temporary protection need to be flexible to react speedily to a crisis or disaster, while providing a minimum level of protection.

Temporary protection envisage the following minimum standards of treatment:\n\(^{31}\)

1. Recognized and documented permission to stay for the designated period;
2. Protection against arbitrary or prolonged detention;\(^{32}\)
3. Non-discriminatory, humane and dignified treatment, including guarantees of shelter/housing, access to health and other basic services and education;
4. Freedom of movement, except as may be warranted by national security, public order or public health considerations;
5. The registration of births, deaths and marriages;\(^{33}\)
6. Physical security, including protection against sexual and gender-based violence and exploitation;\(^{34}\)
7. special care for separated and unaccompanied children, guided by the best interests of the child;\(^{35}\)
8. respect for family unity and tracing, and opportunities for reunification with separated family members;
9. particular attention and special arrangements for persons with special needs, including persons with disabilities;\(^{36}\)
10. self-sufficiency or work opportunities; and
11. access to UNHCR and, as appropriate, other relevant international organizations and non-governmental organizations and civil society.\(^{37}\)

Those minimum standards of treatment are in line with Article 31 of the 1951 Convention. According to Article 31 of 1951 Convention, the Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of...
Article 1 of the 1951 Convention, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence. The Contracting States also shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Victims of human trafficking might have legitimate reasons for not wanting to return to their home countries. Hence, victims might be in need of protection in the form of remaining in the territory of the receiving state. Specifically, Goodwin-Gill mentions several State roles or obligations in dealing with refugees in order to make explicit this protection function and State obligations as follows:

1. States must respect the principle of non-refoulement.
2. States have protection obligations with regard to admission and treatment after entry.
3. States are bound by a general principle not to create refugee outflows and to co-operate with other states in the resolution of such problems as they emerge.

As a matter of international law, the precise standard of treatment to be accorded to refugees will vary, depending on whether the State in which they find themselves has ratified the Convention 1951 and Protocol 1967 or any other relevant treaty. But the best way to reduce trafficking risks for refugees is to provide them with a durable solution—one that offers permanence, legal status, safety and a means of economic support. For individuals at the greatest risk, and for whom return and local integration are not options, expanded third country resettlement options should be made more generously available. Trafficking risks should be explicitly considered when considering which durable solutions are best.

4. UNHCR’s Recommendation for States to Coping with Human Trafficking

It is widely recognized that persons who become subjects of human trafficking are in need of assistance and protection. State’s interventions and activities in the area of human trafficking are based on the premise that this specific crime may entail abuses or serious threats to the human rights of the victims and that an international protection response may be called for to

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60 Ibid. p. 231.
ensure the well-being of the persons concerned. Protection measures provided to victims of trafficking in practice are often restricted to short-term assistance and support offered within the criminal justice system to victims of crimes. This is not sufficient for trafficking victims who fear persecution or other serious human rights violations and cannot return home. Such persons need international protection as provided for in the 1951 Convention, international human rights law or complementary forms of protection under national law. This entails most notably protection against refoulement and in many instances granting of asylum or another protection status. Finally, states have an obligation to cooperate with UNHCR.

Either the issue of human trafficking nor trafficking victims fall under the scope of application of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. State which is not a party to the 1951 Convention or its 1967 Protocol, nor does it have a national refugee status determination system. As a result, the Government authorizes UNHCR to carry out its refugee protection mandate and to identify solutions for refugees in such State. However, as part of a broader international response to human trafficking, UNHCR becomes involved where human trafficking impacts on persons of concern to the Office, in particular.

1. To prevent refugees and other persons of concern (asylum seekers, returnees, stateless and internally displaced persons) from becoming victims of human trafficking and to address the needs of persons of concern who have fallen victim thereto.

2. To ensure that international protection needs of trafficking victims (or those at risk of being trafficked) which may arise as a result of their trafficking experience are properly identified.

3. To assist States in ensuring that trafficking victims who are without identity documents are able to establish their identity and nationality status in order to prevent them from being rendered stateless and to protect stateless victims of trafficking.

The following recommendations to States derived from UNHCR’s work to ensure international protection for victims of trafficking at national level:

a. Legal and institutional frameworks for combating human trafficking and to protect and assist victims of this crime should be strengthened. This includes high level inter-departmental integration of the issue, implementation of

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84 UNHCR, PROTECTING REFUGEES: QUESTIONS AND ANSWERS, HTTP://WWW.UNHCR.ORG/AFR/PUBLICATIONS/BROCHURES/3B779DFF3/PROTECTING-REFUGEES-QUESTIONS-ANSWERS.HTML.
85 Ibid.
National Action Plans and working groups with broad representation of relevant government agencies, international and national organizations.

b. Training programs should be strengthened for national asylum authorities and organizations working with victims of trafficking, including in regard to interpreting the refugee definition in an age- and gender-sensitive manner and the criteria that give rise to the recognition of refugee or other protection status to trafficking victims (or needs of individuals at risk of being trafficked). Indicators of international protection for victims of trafficking should also be included.

c. An understanding of human trafficking risks should be incorporated into the training of emergency response workers. Trained safeguarding response teams should be rapidly deployed at border posts to identify and support vulnerable individuals at risk. Places where those in need may congregate, should be utilised to inform people of false employment offers and trafficking risks. Law enforcement and the military should be trained and ready to respond to the particularities of trafficking in crisis zones.  

d. Modules on International Refugee Law should be included in national professional training programmes on human trafficking for relevant national authorities (migration, police, prosecutors, judges, etc.) to ensure that international protection needs are identified and including the principle of non-refoulement and non-penalization of refugees.

e. All necessary measures should be adopted to ensure participation of governmental institutions, including national asylum authorities, international organizations and civil society organizations here appropriate in the general assessment of protection needs of trafficking victims.

f. Specific safeguards for the protection of children victims of trafficking should be established including:

1) a formal determination of the best interest of the child;
2) the adoption of child-specific protection measures, such as the appointment of guardians.
3) the gathering of information on the role parents might have played in the trafficking situation of their children.
4) issues of tracing and family reunification
5) the observance of specific safeguards in cases of the repatriation

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of unaccompanied or separated children.

g. Protection should be available for persons displaced, including in countries of origin and transit, through projects to build protection capacities and the strategic use of resettlement. This is important, considering that persons already displaced may be at increased risk of becoming victims of trafficking when basic needs and human rights are unmet.

h. In relation to ensuring protection of victims of trafficking, the UNHCR should be involved in advocacy efforts to promote asylum, anti-trafficking legislation and practice at the national level, including through participation in National Working Groups on Trafficking.

i. The number of refugee resettlement places available for victims of trafficking should be increased and selection criteria consider the particular protection needs of victims or individuals are at risk of being trafficked.

Usually, refugees affect and hit states which are neighbors to the state producing refugees. If refugees are of concern to the whole international community, all its members have a duty to take on them a part of the burden. Accepting huge numbers of refugees is certainly a burden to any State.68

So that refugee problems must be approached in the international community within the need to respect humanitarian principles which are an obligation to all States. To implement these principles what is needed is solidarity.

There are two aspects of solidarity. The international community has the right through appropriate organs to participate in the decision making process which influences the destiny of refugees. The members of the international community have a duty of solidarity which means of contributing to the refugee problem. This contribution can take different forms, one of them is to answer the appeals of the UNHCR to contribute in cash or kind so that the existing problems can be dealt with and solutions found.69

New and constantly increasing problems of refugees require the intensifications of the spirit of solidarity. The greater is the international solidarity, the bigger the assistance, the easier then it becomes to solve the problem of refugees. This assistance should be rendered to countries affected by some refugee problems such as the country of asylum, the country of resettlement and the country of origin.68 It is the duty and responsibility of all States to cooperate in all the fields in which international cooperation could be develop in solving international problems especially on refugee as the victim of human trafficking.

69 Ibid.
Because trafficking is a complex issue that can be considered from different perspectives, many treaties are relevant. Other accepted sources of international law, such as custom, general principles and the decisions of international tribunals, can also be relevant when determining exactly what is required of States in their response to trafficking. The prohibition on slavery is widely recognized to be part of customary international, just as non-refoulement principle which is binding on all States irrespective of whether they have actually become a party to one or more treaties that specifically prohibit slavery and expelling refugee. A general principle of law is one that is common to all major legal systems of law and thereby part of international law.

Conclusion

Refugees are at particular risk for human trafficking as a consequence of their vulnerable status. There are some instruments to protect refugee from human trafficking. In the frame of trafficking, refugees then have a double protection due to their status, first the Convention on the Status of Refugee, and second by the international instruments related to Human Trafficking. The principle of non-refoulement constitutes an essential component of international refugee protection and also embodied in some regional instruments. Providing temporary protection is a humanitarian and non-political act to react speedily to a crisis or disaster, including to prevent human trafficking on refugee. As part of a broader international response to human trafficking, UNHCR becomes involved where human trafficking impacts on persons of concern to the Office. It is the duty and responsibility of all States to cooperate in all the fields in which international cooperation could be develop in solving international problems especially on refugee.

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