

## The recognition of human rights implications of trafficking

Human trafficking is a violation of human rights including the right to human dignity, to physical and mental integrity, to freedom of movement, to freedom from torture and in some cases even the right to life.

As for the causes of trafficking, many people resort to traffickers in their States of origin for such reasons as economic hardship, persecution by States, terrorism and armed conflicts. Many of these factors are considered to have negative impacts on the enjoyment of human rights. The prohibition against torture, inhuman and degrading treatments is relevant, as many of those trafficked are placed under harsh conditions from the beginning to the end of their journey. As was the case with 58 Chinese illegal migrants who were found dead in a lorry at Dover in June 2000, many can lose their lives during the process of trafficking. Therefore, **the right to life** can also become a crucial issue.

In addition, as highlighted by the definitions of trafficking of the CoE, the OSCE and the EU, subsequent exploitation can be seen to constitute **slavery and forced labor**. Moreover, they may experience **discrimination on account of their race, ethnicity, religion** and other distinctions once they reach their destinations. Finally, due to the illegal nature of their stay, those trafficked may **not be able to receive adequate legal, social, economic and other assistance from States of destination**.

### Trafficked People Often Suffer From Multiple Health Problems

Trafficked people often suffer from a multitude of physical and psychological health problems. Women are specifically vulnerable to reproductive and other gender-specific health problems in trafficking situations as they have little or no access to reproductive health care. These problems include lack of access to birth control, constant rapes, forced abortions and contraceptive use, lack of regular mammograms and Pap smears, and other health issues. Women in domestic servitude are subject to rape and other physical abuse, while women in forced prostitution suffer increased risk of sexually transmitted infections, including HIV/AIDS, repetitive stress injuries, and back problems. Moreover, most trafficked persons suffer from post-traumatic stress and, because of constant physical and psychological abuse, exhibit symptoms associated with survivors of severe trauma and torture.

There are two main advantages in treating trafficking as a human rights issue.

- ❑ First, a human rights discourse provides a framework for understanding the problems experienced by those trafficked and for seeking solutions according to their needs. Those trafficked may be seen as victims of human rights violations rather than criminals who violate national immigration laws and regulations, and this makes it easier for States, International Organizations and NGOs to offer assistance such as provision of food, shelter, medical and psychological treatments to fulfill their immediate needs. Other measures such as settlement in new societies (e.g. assistance on employment and provision of temporary or permanent residence permits) or repatriation to, or re-integration in States of origin can also be considered if those trafficking wish to return.
- ❑ Second, the human rights approach can put more pressure on States to act because they can be held accountable under international and regional human rights laws. At first glance human rights law may not be applicable to trafficking, since the perpetrators are private individuals for the most part, and human rights law addresses the responsibility of States rather than of individuals. Nevertheless, the concept of positive and negative obligations under Article 1 of the European Convention on Human Rights can be relevant in the instant case. While a negative obligation requires States to abstain from interfering with human rights, States have to take action to secure human rights under a positive obligation. This means that the failure of States (of origin and destination) to take action against and/or to refrain from some of the human rights violations raised earlier, such as persecution, forced labor, torture and other inhuman or degrading treatment and discriminations may be addressed. Thus, although there is as yet no jurisprudence on trafficking under the European Human Rights system, the European Court and Convention on Human Rights may be able to address the human rights issues of trafficking in the future.

# Trafficking and Human Rights Violations

- Right not to be held in slavery or involuntary servitude
- Right to a life free of violence
- Right to healthy lifestyle and quality healthcare
- Right to liberty
- Right to be free from cruel and inhumane treatment