



Irish Centre for Human Rights Policy Brief (2018/03)

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1. This submission takes as its primary focus the subject of trafficking in persons, particularly women and girls. It recommends a human rights based approach to combating trafficking in persons, recognising that trafficking is a serious human rights violation as well as criminal offence, requiring accountability.
2. In its Third National Action Plan, the State should ensure effective implementation of its obligation to prevent, prosecute and protect survivors of human trafficking, in partnership with civil society, trade unions, the private sector, and international organisations.
3. The positive obligations on the State in relation to trafficking persons, arise from several international human rights law sources, including the core UN human rights treaties ratified by Ireland, the Palermo Protocol, the ILO Protocol to the Forced Labour Convention on Trafficking, as well as regional human rights instruments, specifically the Council of Europe Convention on Action against Trafficking in Human Beings, and the European Convention on Human Rights and Fundamental Freedoms. EU law, including the 2011 Directive, also impose positive obligations of partnership and international cooperation, as well as prevention, protection and prosecution, to combat impunity for this crime.
4. It is critical that the gender dimension of human trafficking is essential to all counter-trafficking action, and that a human rights based, survivor-centred approach, is adopted in all measures adopted. To this end, the participation of survivors of human trafficking, and representative civil society organisations, in the design and implementation of action plans, legislation and policy, is essential, as is compliance with and effective implementation of international human rights standards on trafficking in persons.
5. In the Report of the Special Rapporteur on Trafficking in Persons, especially women and children, (17 July 2018), UN Doc. A/73/171, the gender dimension of trafficking in conflict and post-conflict settings and the nexus between trafficking, conflict and sexual and gender based violence is highlighted. This submission draws upon the recommendations of the Special Rapporteur's report, and on the Global Compact for Safe Orderly and Regular Migration.

Prevention

6. The 3rd National Action Plan must address the State's obligations of prevention of trafficking in persons. It is important that prevention strategies go beyond awareness raising measures, and work in partnership with civil society, trade unions and the private sector, to reduce vulnerability to trafficking.



7. Recognising the prevalence of trafficking in children, and the gender dimensions of trafficking for the purpose of sexual exploitation in particular, capacity building of child protection procedures, laws and policies is critical.
8. In countries affected by conflict and forced displacement, the specific needs and rights of separated and unaccompanied children must be addressed through support strategies that prioritise the best interests of the child, the establishment of a protective environment for children including specialised and safe accommodation, the timely appointment of qualified guardian *ad litem*, and the granting of international protection.
9. Prevention of trafficking in persons in countries affected by conflict and forced displacement requires training and capacity building of all personnel engaging in management or administration of refugee or IDP camps or settlements, and prioritisation of awareness-raising of the risks of trafficking heightened in the context of conflict.
10. Supporting action to prevent trafficking for the purpose of labour exploitation requires resourcing and capacity building of labour inspectorates, trade unions and civil society, as well as a comprehensive legislative and policy framework for monitoring of recruitment agencies and intermediaries. Gaps or limitations in labour legislation relating to sectors at risk, such as domestic households and the agricultural sector, should be addressed through law and policy reform programmes.
11. Support for bilateral and multilateral cooperation to prevent trafficking for the purpose of labour exploitation, through enhanced training and capacity building in consulates and Embassies, and development of model contracts, including in particular for domestic workers at risk of both labour and sexual exploitation.
12. Building on Ireland's role as a full member of the ILO Governing body, it is essential to ensure that prevention of trafficking for the purpose of labour exploitation is strengthened through close coordination with the ILO and effective enforcement of international labour standards, including in particular, the ILO Convention on Domestic Workers.
13. Ensure that human rights based approaches to trafficking in persons are mainstreamed into all areas of conflict, post-conflict and development work, including in particular work relating to prevention of and protection and recover from conflict related sexual violence.
14. Ensure that early warning and early screening measures are undertaken to detect victims and potential victims of trafficking in conflicts, according to SC Res 2488 (2017).
15. Support bilateral and multilateral cooperation to expand legal migration routes and pathways and to reduce vulnerability to trafficking, including through support for humanitarian visas, family reunification and migration for work.



Protection

16. Support the development of specialised and safe accommodation for all victims of trafficking, ensure resourcing and an enabling legal framework for medical, psycho-social assistance, counselling, early legal assistance and legal aid.
17. Prioritise social inclusion programmes for survivors of human trafficking, including effective access to employment, vocational training, and education.
18. Recognise and support capacity development of effective remedies for human trafficking, including compensation and legal redress, and guarantees of non-repetition through accountability and protection.
19. Support the development of specialised child trafficking referral mechanisms, in line with the Global Compact for Safe Orderly and Regular Migration, and protection measures to effectively guarantee the best interests of the child.

Prosecution

20. Combating impunity for trafficking in persons requires justice sector reform programs that strengthen capacity building and training on trafficking for police, prosecutors and the judiciary, and supports the development of specialisation in each body.
21. Protection of witnesses and victims is critical to ensuring a human rights based approach to combating human trafficking. Supporting capacity building and development of victims and witnesses units and measures, taking account of the gender dimension of trafficking in persons and the human rights of women and girls.
22. Promoting a child friendly justice system is critical also to combating trafficking in children, recognising the specific gender dimension of child trafficking and the need to witness and victim protection measures that ensure the best interests of the child.

Partnership

23. Ensure that adequate resourcing and an enabling legal framework is in place to facilitate the work of NGOs and other civil society actors, including trade unions, to assist survivors of trafficking and to undertake prevention and protection actions and programmes, reflecting also the recommendation of the report of the Secretary General (S/2018/250), para.97(c).



24. Ensure that survivors of human trafficking are supported in participating in design, planning, coordination and implementation of counter trafficking actions and programmes.

Refugee, asylum seeking and migrant women and girls in Ireland, including survivors of human trafficking

- Support social inclusion of refugee, asylum seeking and migrant women and girls in Ireland by removing as a matter of urgency, barriers to third level education including in particular the residence requirements that limit eligibility for the Free Fees initiative.
- Implement the recommendations of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (Second Evaluation Report 2017), in particular by ending accommodation of survivors of trafficking in direct provision centres, ensuring access to safe and specialised accommodation facilities, and effective early identification procedures for potential victims of trafficking, not linked to criminal justice proceedings.
- Strengthen programmes to support long term social inclusion of survivors of human trafficking, in partnership with civil society, trade unions and the private sector, and ensure sufficient resourcing of programmes.
- Expand pathways to family reunification for migrants and refugees in Ireland, including survivors of human trafficking, as a prerequisite to social inclusion, revising recent restrictions imposed in the 2015 International Protection Act on family reunification for refugees.