



ADDRESSING HUMAN TRAFFICKING AND EXPLOITATION IN TIMES OF CRISIS

EVIDENCE AND RECOMMENDATIONS FOR FURTHER ACTION
TO PROTECT VULNERABLE AND MOBILE POPULATIONS | JULY 2015



BRIEFING DOCUMENT

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Acronyms

AoR	Area of Responsibility
CCCM	Camp Coordination and Camp Management
CERF	Central Emergency Relief Fund
CIMIC	Civil Military Cooperation
CP	Child Protection
CSO	Civil Society Organization
CT	Counter-Trafficking
GBV	Gender-Based Violence
IASC	Inter-Agency Standing Committee
IDP	Internally Displaced Person
IOM	International Organization for Migration
MCOF	Migration Crisis Operational Framework
NGO	Non-Governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
PSEA	Prevention of Sexual Exploitation and Abuse
SGBV	Sexual and Gender-Based Violence
SOP	Standard Operating Procedure
TiP	Trafficking in Persons
UASC	Unaccompanied and Separated Children
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council
VoT	Victim of Trafficking

INTRODUCTION¹

When peacekeepers, police officers, private contractors and other international community members were deployed in Bosnia Herzegovina and UNSC Resolution 1244-administered Kosovo during the wars in the Western Balkan region (1992 - 1999), small scaled and local trade in prostitution by organized criminal networks became a flourishing industry². At that time, the humanitarian community started to recognize the gravity of the problem of Trafficking in Persons³ (TiP), and subsequently placed it on the international agenda.

Although TiP has gathered momentum and several international organizations developed approaches to address human trafficking, the phenomenon remains a serious crime, with grave human rights violations, that is largely overlooked in crisis situations by both governmental and non-governmental actors. Identifying cases of TiP is hampered by definitional difficulties, a lack of knowledge and the existence of grey areas between trafficking and other forms of exploitation. In addition, TiP is typically not considered as a direct consequence of a crisis. This misplaced assumption often hampers the field response to human trafficking cases, not only in terms of documentation, reporting, identification and assistance to the victims, but also in the subsequent criminal investigation. Counter-Trafficking (CT) efforts are not necessarily understood as immediate life-saving in an emergency situation. In reality, these efforts are a matter of life and livelihood for the Victims of Trafficking (VoT) and should therefore be considered with as much priority as for any other crisis affected population.

Careful not to overstate the problem and consequences of trafficking in crisis situation, the larger report, upon which this briefing is based, provides evidence-based recommendations to the humanitarian community, particularly professionals working on counter-trafficking and exploitation in emergency responses. This report addresses the risks, the prevention of incidences and how to improve the response on human trafficking in the various phases of a crisis (before, during and after), with a focus on armed conflicts, natural disasters and protracted crises. This briefing document provides a summary of the key findings and recommendations from this report.

Some of the recommendations are already part of the Organization's strategy to address Trafficking in times of crisis, which is currently being finalized.

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² On the Western Balkans experience, see Samantha T. Godec, *Between rhetoric and reality: exploring the impact of military humanitarian intervention upon sexual violence – post-conflict sex trafficking in Kosovo* - International Review of the Red Cross, Volume 92 Number 877 March 2010, p245; See also Human Rights Watch (HRW) report on Bosnia-Herzegovina, 2002, www.hrw.org/reports/2002/bosnia/Bosnia1102.pdf, and GTZ desk study, *Armed Conflict and Trafficking in Women*, 2004.

³ For the definition of Trafficking in Persons (TiP), please see Article 3 of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children: www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx.

PART I

HUMAN TRAFFICKING AND EXPLOITATION IN TIMES OF CRISIS

Why human trafficking is overlooked in times of crisis

THERE ARE SEVERAL REASONS WHY THE HUMANITARIAN COMMUNITY OVERLOOKS HUMAN TRAFFICKING IN A CRISIS SITUATION:

- There are no clear boundaries in the definitions of human trafficking. This complexity is highlighted in the fact that there are grey areas between forced labour, gender-based violence, exploitation, abduction and trafficking; and hence, defining whether someone is a victim of trafficking or exclusively a victim of labour exploitation can be tricky⁴. TiP has been defined within the Palermo Protocol, while exploitation remains undefined under international law.
- Many States do not have CT legislation or other measures in place to reduce vulnerability to trafficking and to address the protection needs of populations at risks. In addition, where legislation exists, it is often not enforced—all the more true in a crisis situation.
- TiP is less documented than other crimes and is not always identified and investigated properly in the field, particularly in crisis situations when resources are scarce and environments generally challenging. Moreover, despite efforts on capacity-building and the adoption of national counter-trafficking laws, the number of prosecutions based on TiP allegations remains relatively low in comparison to other crimes⁵.
- The absence of baseline data often handicaps the response to trafficking both in normal times and even more so in crisis situations. It is hence difficult to evaluate the impact of a crisis on human trafficking trends.
- The humanitarian community might consider the issue of human trafficking as a concern for development actors. Despite recent efforts to bridge the gap between pre-crisis dynamics and immediate crisis response, CT responses still fall behind⁶. Human trafficking remains unaddressed within the Cluster System, leading to an important protection gap in crisis settings.

⁴ See L. Lungarotti, A.Tillinac, S.Craggs, Trafficking in persons in times of crises — a neglected protection concern: the case of Iraq, within the Humanitarian Practice Network Forum, Humanitarian Policy Group of the Overseas Development Institute, 2015 - forthcoming.

⁵ For further analysis on the criminalization of human trafficking and the under-use of the offence of trafficking, see in particular I. Atak and J.C. Simeon, *Human Trafficking – Mapping the legal boundaries of International Refugee Law and Criminal Justice*, *Journal of International Criminal Justice*, 2014.

⁶ See L. Lungarotti, A.Tillinac, S.Craggs op. cit.

PART II

SUMMARY OF CASE STUDY KEY FINDINGS

The research upon which this briefing is based involved field research conducted between November 2014 and June 2015 in Libya and Iraq, and consultations and desk research on Syria, the Philippines, Haiti, Eastern Africa and countries affected by the 2004 tsunami.

The cases were selected to consider TiP in the context of:

- Armed conflict: Libya, Iraq and Syria
- Natural disasters: Indian Ocean Earthquake, Haiti and the Philippines
- Mixed flows in complex settings: Eastern Africa and the onward North Africa migratory route

Armed conflicts

In the Libya and Iraq cases, the rule of law creates a state of impunity, where traffickers in certain localities can act without the fear of arrest and condemnation. TiP may turn into a means to achieve armed groups' objectives, such as the recruitment of fighters and workforce, financing of the groups' activities, providing for sexual services, but also in terms of ideology due to the systematic trafficking and enslavement of ethnic minorities. Asylum seekers, refugees, labour migrants and irregular migrants are considered the most vulnerable categories to fall victim of TiP in Libya and they are considered a main target for traffickers. TiP of minorities also highlights discrimination as an important risk factor. Similarly to racial discrimination observed in Libya, in Iraq discrimination appears also to be based on ethnic (racial) and religious factors. The Iraqi scenario also highlights the strong gender dimension of TiP in times of crisis, with specific targeting of girls and women, and the links with sexual exploitation and sexual slavery⁷. In Syria, many families and individuals have adopted negative coping mechanisms such as forced early marriages and child labour, often resulting in exploitation and trafficking.



⁷ While the Iraqi setting has been highlighted above, similar patterns can be found in other ongoing armed conflicts, such as Nigeria and the crimes committed by Boko Haram, with the mass abductions of girls in the territories under their control, and the forced recruitment of children, including serving as suicide bombers. Suspicion of trafficking for organ removal was also reported in Syria, forced recruitment of children too.

Natural disasters



Natural disasters heighten the risk, and create the right environment, for traffickers to exploit the vulnerabilities of the affected population. The examples from the Indian Ocean Earthquake impacted countries, Haiti and the Philippines illustrate the vulnerability of children in the immediate aftermath of large-scale natural disaster. The Haiti case also highlights that some individuals, organizations and criminal networks take advantage of the chaos induced by such disasters and of the vulnerability of affected individuals.



Mixed flows in complex settings

The lack of perceived viable alternatives in Eastern Africa and along the migratory route through North Africa, the few legal emigration opportunities to third countries, and the poor quality education and livelihood opportunities make irregular migrants vulnerable to traffickers. On the other hand, the lack of awareness on the dangers of involvement in the trafficking business and the lack of alternative livelihood opportunities in countries of transit encourage young people to get involved in these criminal activities. TIP along the Eastern African migration route northwards to Europe and previously Israel has consequently increased over the years as a process driven by opportunism and necessity.



PART III

ANALYSIS: NEXUS BETWEEN TRAFFICKING AND CRISIS SETTINGS

Risk factors for vulnerable populations

Responding to TiP and exploitation in times of crisis should be considered as a life-saving protection activity. When referring to the Central Emergency Relief Fund (CERF) definition of life-saving activities, these are “actions that within a short time span remedy, mitigate, or avert direct loss of life, physical and psychological harm or threats to a population or major portion thereof and/or protect their dignity.”⁸ Countering human trafficking indicates the prevention of death as a result of exploitative practices, the preclusion of physical harm and in the worse cases lethal communicable diseases, and the prevention of psychological harm of potential trafficking victims.

Several risk factors related to TiP are similar in crisis situations as in non-crisis situations. However, crises prompt extra risk factors and vary whether crises are induced by armed conflicts, natural disasters or protracted situations. TiP may not develop similarly or to the same extent in all types of crises. Some similarities can, however, be observed in the different crisis settings analyzed in this report:

- Crises are likely to have an impact on TiP, not just in directly affected areas, but also in regions hosting migrants, independently from their legal status and the nature of the crisis;
- The erosion of rule of law and institutional breakdown, development of criminal activities, corruption and involvement of officials, impunity, and the enhanced reliance on negative coping mechanisms and risky survival strategies, are observed in many large-scale crises and represent important risk factors for TiP;
- At the onset of a crisis, existing criminal networks may become disembroiled but may also adapt to the new situation – for example by targeting new victims, in new places such as refugee and IDP camps or local populations hosting high numbers of mobile populations;
- Traffickers may seek to take advantage of populations receiving humanitarian assistance to increase their criminal activities through fraudulent and ultimately exploitative opportunities of employment or onwards migration;
- Independent from the type of crisis, IDP and refugee camps are a breeding ground of new victims for traffickers and other criminal networks looking for a cheap or free workforce, sexual services and other exploitative services;
- The general lack of economic opportunities and the increasing reliance on negative coping mechanisms can translate, in some cases, into heightened vulnerability to TiP among affected populations. Positions of vulnerability may be abused, while traffickers take advantage of the desperate economic and social conditions of the affected population;
- Traditional harmful practices, such as early marriage, are increasing during crisis settings and some might lead to trafficking;
- The absence of protection or immediate solutions increase exposure to trafficking, in particular in protracted settings;
- Weak governments are less equipped to respond to a large-scale crisis, and when a crisis hits, it will strongly exacerbate the vulnerability of affected populations;

⁸ CERF life-saving criteria, 2010.

- Other aggravating factors related to discrimination, whether gender-based, ethnic, racial, religious, social, in the communities or at national level.

Based on above observations, despite a number of similar features, response strategies should be adapted to each setting to make sure that all realities are encompassed. In addition, the nature of a crisis results in different responses. For instance, in the aftermath of a major natural disaster, the humanitarian community is more likely to rely on a national government for assisting in a rapid response, whereas in situations of armed conflict, governments might be unwilling or unable to contribute. Armed conflicts usually trigger a number of serious security concerns that may restrict humanitarian access and may compromise the physical protection of both humanitarian workers and local populations. Natural disasters also bring their share of security issues, in particular when levels of resentment and frustration grow among affected populations leading to post disaster violence, such as was the case in Haiti in 2010 and in the Philippines in 2013. All these factors should be carefully considered before implementing CT activities in emergency settings.

AT-RISK POPULATIONS

Vulnerable and mobile populations affected by crisis are at risk of trafficking and exploitation. At-risk populations in times of crisis can include irregular migrants, migrant workers, asylum seekers and displaced populations (refugees and IDPs) directly caught up in a crisis or in transit, people left behind and local communities. Particularly at-risk locations can be transit or collective holding points for irregular migrants, informal places of employment, displacement camps, informal settlements and host communities. The predominant vulnerable groups may include:

- Unaccompanied and separated children, children on the move
- Women-headed households, women and girl victims of domestic violence
- Victims already trafficked caught up in a crisis
- Minorities and victims of discrimination – ethnic, racial, religious, social
- Individuals in a position of vulnerability – gender, age, status/irregular, social, economic, political and so on.

Women and girls are considered most vulnerable to trafficking, but are not the only ones targeted. Men and boys are also victims of TiP and exploitation, mainly related to labour exploitation, forced recruitment and irregular migration. Besides the gender-based discrimination, other forms of discrimination have also been pointed out as aggravating factors in the rise of trafficking occurrences.

Protection gap

Some forms of TiP and exploitation are referred to in the framework of the Protection Cluster and its two relevant Areas of Responsibility (AoR), namely Gender-Based Violence AoR and Child Protection AoR (see Table 1). However some other forms of TiP and exploitation, as highlighted in Table 1 below, remain unaddressed within the Cluster System, therefore representing an important protection gap in crisis settings.

Table 1: PROTECTION GAP IN THE EXISTING PROTECTION CLUSTER

ADDRESSED		UNADDRESSED
CHILD PROTECTION	GENDER-BASED VIOLENCE	VOTS AND THOSE AT RISK
– Forced child labour	– Forced early marriage	– Exploitation of stranded migrants
– Forced child recruitment	– Forced temporary marriage	– Displaced population resorting to unsafe migration
– Child violence and abuse	– Forced prostitution	– Abductions of stranded migrants or migrant workers
– Child kidnapping and abduction	– Domestic violence	– Victims of trafficking (labour exploitation, slavery, forced begging, etc.)
– Illegal adoption	– Sexual violence, rape and sexual exploitation	– Victims of trafficking for organ removal
	– Sexual exploitation and abuse by aid workers	– Kidnapping of migrants for ransom payments
		– Exploitation of discriminated minorities

PART IV

RECOMMENDED RESPONSE STRATEGY

Shared responsibility

TiP does not suddenly manifest itself in an isolated situation. The links between the vulnerability of populations and exploitive practices which existed prior to a crisis need to be factored into a humanitarian response⁹. To launch an appropriate response to TiP in crises, TiP should gain recognition as a phenomenon interrelated to crises, not only as a side effect. In addition, CT activities should be considered as life-saving. Current humanitarian responses in crises do not encompass the full reality of human trafficking and exploitation, therefore leaving forms of trafficking unaddressed and victims unassisted. An adequate response has to ensure the comprehensive protection of vulnerable individuals. CT activities should therefore find a place in the existing Cluster System. Human trafficking and exploitation offenses should consequently be documented and reported to quash impunity¹⁰. CT strategies should be part of the overall protection approach implemented during emergencies.

Recommendations

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- States' capacity and commitment¹¹ to get involved in a CT response should be strengthened by international actors, and partnerships with Civil Society Organizations (CSOs)/NGOs should be fostered (where relevant and feasible);
- Cooperation with national and international law enforcement agencies should be enhanced, Civil Military Cooperation (CIMIC) fostered and cooperation with available legal mechanisms, including regional and international bodies should also be enhanced;
- Awareness raising and educational campaigns on human trafficking and referral pathways should be conducted, targeting at-risk populations, governments and aid workers to bridge the knowledge gap before, during and after a crisis.

HUMANITARIAN COMMUNITY, UN SYSTEM AND THE DONOR COMMUNITY

- The Inter-Agency Standing Committee (IASC) should be called upon to strengthen the Humanitarian Community response and issue operational guidelines for CT interventions during a crisis;
- Adopting a rights-based approach, specific working groups (sub-cluster level) or task forces on TiP and CT measures should be set up, reporting directly to the Cluster System. CT activities could be given a dedicated space within the Cluster System, or be merged with other relevant concerns, such as irregular migration, SGBV, Child Protection; IOM could be seen as one of the actors leading this effort;

⁹ IOM MCOF document refers to the necessary linkage with development concerns.

¹⁰ See IOM MCOF documents (MC/2355), art. 3 (c) and the necessity to tackle "unaddressed migration dimensions of a crisis".

¹¹ "All States, irrespective of their place in the trafficking cycle, have an international legal responsibility to act with due diligence in preventing trafficking; investigating and prosecuting suspected traffickers; and providing assistance and protection to those who have been trafficked" – OHCHR, Principle 2.

- Existing special procedures within the UN system, in particular the Special Rapporteur on Trafficking in Persons, especially Women and Children, should continue to raise awareness on this topic, report findings to higher levels, and provide technical support to the Humanitarian Community and authorities of affected countries. It is also recommended that the Special Rapporteur looks carefully at the situation of men in crises;
- Strengthening the CT measures and approaches during crisis will require strong commitments from the donor community. Donors should help in bridging the divide between humanitarian and development settings and recognize the relationship between pre-existing trafficking patterns and the heightened risks and vulnerabilities during crises.

Specific parameters of response: before, during & after

◀◀ Before

STATES

- Efforts to promote the adoption of national CT laws and their effective implementation in the field should be carried out and regional initiatives should be encouraged;
- Whenever possible, States' commitment to combat trafficking should be encouraged and supported (prosecution of criminals, including public-sector officials involved and the decriminalization of victims);
- Baseline studies should ensure that main TiP trends and risk factors are known and understood locally, and that at-risk populations are identified;
- CT components should be integrated within the emergency preparedness and contingency planning, including a National Referral Mechanism in times of crisis;
- Livelihood activities should be elaborated to reduce the vulnerabilities to TiP and exploitation for at-risk populations.

HUMANITARIAN COMMUNITY, UN SYSTEM AND THE DONOR COMMUNITY

- CSOs should be encouraged to take part in the process and build up their capacity accordingly; direct agreements between governmental and non-governmental actors should be fostered in fields of assistance and protection;
- Capacity-building efforts should integrate a component on TiP in crisis situations, and target multi-sector stakeholders involved in humanitarian responses.

○ During

STATES, HUMANITARIAN COMMUNITY, UN SYSTEM AND THE DONOR COMMUNITY

- CT measures should be part of the humanitarian response, to prevent TiP and protect vulnerable and at-risk populations; advocacy should be undertaken through the Cluster System, and specifically the Protection Cluster and its Areas of Responsibility;
- Rapid assessments should be undertaken by trained staff at the onset of a crisis to assess the scope, scale and risk factors to TiP (specific assessment indicators could be developed with the support of IOM). The findings should inform evidence-based responses to ensure the protection and assistance of vulnerable populations caught up in crisis;
- Local/national Standard Operating Procedures (SOPs) should be drafted, or when already existing should be adapted to reflect the crisis context. SOPs should be informed by the rapid assessments and outline short, medium and long-term protection responses including durable solutions;
- Emergency referral mechanisms defining the roles and responsibilities of actors to ensure effective assistance to VoTs should be drafted;
- When Government support is not available, alternative solutions should be identified within resources in the field, among the international and national community, such as GBV, CP, CCCM actors and NGOs and CSOs;
- Synergy with all relevant humanitarian efforts should be created to ensure the efficient protection of victims;
- The creation of specific and targeted inter-agency cooperation mechanisms should be encouraged based on needs, to allow for a more coherent CT response during crises (these cooperation mechanisms could be led by IOM);
- CIMIC should be established at an early stage of the crisis to develop an adapted response in terms of rescue, security and other potential concerns;
- Prevention of Sexual Exploitation and Abuse (PSEA) should be promoted at all stages of the response, targeting both peacekeepers and humanitarian workers involved in crisis response;
- Adapted TiP related capacity-building trainings should be delivered to multi-sector stakeholders involved in any humanitarian response. Specific attention should be paid to the training of staff positioned at key geographic and strategic points, either border guards, camp managers, peacekeepers, health professionals or other front line workers (IOM's expertise could be used for capacity-building initiatives);
- Tools used by international actors in crisis situations should be adapted to include CT concerns. This could include the adaptation of UN special reporting and monitoring mechanisms on violence in armed conflict setting, information and case management systems, and other protection emergency tools;
- Safe places for VoTs should be identified and secured throughout the crisis, and when relevant, additional solutions should be looked at, including international protection in cooperation with UNHCR;
- When VoTs are returning, individual reintegration assistance should be provided; where feasible, referral to national services for onward support should be imperative;

- Unaccompanied and Separated Children (UASC) VoTs should benefit from tailored support, including best interest determination, appointment of a legal guardian, family tracing and reunification when relevant;
- Whenever the crisis situation allows, VoTs and exploited mobile populations should be able to benefit from relevant legal support, whether by State or non-governmental actors, and be informed about their rights.

▷▷ **After**

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- Prosecution should be encouraged and capacity-building measures for criminal justice actors strengthened;
- Governments should be supported in addressing the needs and risk factors identified with the above mentioned analysis through further capacity-building, CT law implementation, awareness raising and direct assistance for victims;
- Risks inherent to post-crisis settings should be further looked at and documented; while analysis and evaluation of measures taken during a crisis phase should be encouraged.

HUMANITARIAN COMMUNITY, UN SYSTEM AND THE DONOR COMMUNITY

- The humanitarian community's CT efforts should contribute in building resilience, empowerment and safety nets for at-risk populations;
- Further individual integration/reintegration support may be needed for identified VoTs, who need to be able to benefit from relevant assistance; and local actors should be systematically engaged in the response.

Established in 1951, the International Organization for Migration (IOM) is the principal intergovernmental organization in the field of migration.

IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM's mandate is to help ensure the orderly and humane management of migration; to promote international cooperation on migration issues; to aid in the search for practical solutions to migration problems; and to provide humanitarian assistance to migrants in need, be they refugees, displaced persons or other uprooted people. The IOM Constitution gives explicit recognition of the link between migration and economic, social and cultural development as well as respect for the right of freedom of movement of persons.

IOM collaborates closely with governmental, intergovernmental and non-governmental partners.



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