DELTA 8.7 COUNTRY POLICY RESEARCH WORKSHOP ON UGANDA: WORKSHOP BRIEFING

INTRODUCTION

On 9-10 February 2022, Delta 8.7 convened a policy research workshop in partnership with the Refugee Law Project, Makerere University School of Law and the Irish Centre for Human Rights at the School of Law, National University of Ireland - Galway. This workshop was held to facilitate exchange on the most effective measures to prevent, identify and remediate trafficking of persons in refugee and asylum-seeking populations in Uganda.

In preparation for the workshop, interviews were conducted with all workshop participants and other selected experts to identify key policy areas for the discussion. Over the course of the workshop itself, participants in four sessions considered these policy areas and responded to questions identified in the pre-workshop interviews. These policy areas were:

1. Regional and continental frameworks to manage trafficking in people on the move
2. Trafficking response through local lenses for identification and prevention
3. International humanitarian and human rights frameworks
4. Identification and prevention at the national level

What follows is a summary of the research needs, best practices and areas in which policy might be better instrumentalized to effectively address human trafficking in the context of refugee and asylum-seeking populations in Uganda. These notes draw upon the workshop discussions as well as the pre-workshop interviews. In the summary of best practices and strengthening policy or implementation, the following key themes have been identified:

1. International, regional and national frameworks for action
2. Partnerships, collaboration and capacity-building
3. Identification and data

We thank the individuals who contributed their insights in interviews or in the workshop, including:

- **Rachel Bihkole**, Assistant Director, Office of the Director of Public Prosecutions of Uganda

- **Tito Byenkya**, Head of Protection and Rule of Law, International Rescue Committee

- **Vincent Cochetel**, Special Envoy for the Central Mediterranean Situation, United Nations High Commissioner for Refugees

- **Juliet R.N. Gachanja**, Child Rights Technical Advisor, Advocate of the High Court of Kenya

- **Agnes Igoye**, Deputy National Coordinator, Coordination Office for the Prevention of Trafficking in Persons of Uganda (COPTIP)

- **Andria Kenney**, Counter-Trafficking in Persons Specialist, International Organization for Migration

- **Michelle Koinange**, Team Lead for Migration, Council of Anglican Provinces of Africa

- **Darlson Kusasira**, Senior Community Services Officer, Office of the Prime Minister of Uganda

- **Patrick Munduga**, Executive Director, Africa Non-profit Chore (ANCHOR)

- **Devota Nuwe**, Head of Programs, Refugee Law Project

- **Arnold Okello**, Hope for Justice Uganda

- **Hanni Stoklosa**, CEO, HEAL Trafficking

- **Christine Turibamwe**, Magistrate Grade One, Judiciary of Uganda

Special thanks to session moderators:

- **Chris Dolan**, Director, Refugee Law Project
- **Siobhán Mullally**, Director, Irish Centre for Human Rights; UN Special Rapporteur on trafficking in persons, especially women and children
- **Gilbert Nuwagira**, Assistant to the Director, Refugee Law Project
- **David Tshimba**, Senior Research Fellow, Refugee Law Project

INTERNATIONAL, REGIONAL AND NATIONAL FRAMEWORKS FOR ACTION

Many responses are in place at the international level that address some aspects of human trafficking, but participants in the workshop noted the lack of a systematic mechanism to address trafficking within the humanitarian response system. There is no single accountability mechanism within the international system for trafficking, although trafficking risk may be identified as part of crisis response.

There is no system in place for trafficked persons to seek access to international justice at levels available to victims of other human rights abuses. Identification of trafficked persons within the international humanitarian system may be obscured when a trafficked person seeks support within other protection systems more readily available to them (such as within child protection or sexual and gender-based violence support systems). While this may achieve the goal of immediate protection for a trafficked person, the lack of targeted or long-term support may introduce the risk of re-trafficking for that person, in addition to the loss of accurate data on the scale, prevalence and nature of the offence.

The influence of donor States, the European Union (EU) and the international community on African regional approaches to irregular migration and trafficking in persons and smuggling of migrants has been identified as one area in which disconnection on goals may cause protection gaps. The African Union (AU) and EU were noted as having fundamentally different priorities in addressing African migration: where the AU seeks to provide access to safe migration, the EU's focus is often seen to be on the restriction of movement from African migrants into Europe. Although most migration of Africans occurs within the continent — and of this, very little is irregular migration — donors have focused on irregular migration, and migration to Europe, as a funding priority. As a result, some services may be available in large cities and capitals, but along the routes themselves there are few anti- trafficking actors, and where there is, they are poorly capacitated in making appropriate referrals.

East Africa was noted as a complex region to address trafficking: significant numbers of people experience both protracted and new displacement driven by instability, conflict and human rights violations. Large areas of the region experience climate-related and economic vulnerability, and refugee settlements are in areas that are particularly vulnerable to these effects. At regional levels, since the ratification of the Global Compact for Migration in 2018, different countries within East Africa have identified the need for a mechanism for addressing refugees, internally displaced persons (IDPs) and trafficking victims that ensures national and regional coordination.

Such a mechanism was launched first in Kenya, shortly afterward in Uganda, and has thereafter been developed in other countries in the region. Workshop participants suggested there may not be consistency across these mechanisms. For example, there are some disparities in support for identified survivors of trafficking in persons, with guaranteed financial support in Kenya but not in Uganda.

Recommendations

The Palermo Protocol should be understood and implemented in complement with existing human rights treaties and instruments. As the Palermo Protocol lacks an enforcement mechanism, this approach could support efforts to ensure States are engaging with obligations within their legal frameworks. The Convention on the Rights of the Child, the Committee on the Elimination of Discrimination Against Women, and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[1] all offer routes to address human rights violations including trafficking. In addition, international labour standards and human rights obligations related to economic inequality and racial justice should be considered.

The African Union Commission has a comprehensive Migration Policy Framework,[2] and this provides an opportunity for African States **to build collective leverage to address migration as a development opportunity while also recognizing irregular migrants as highly vulnerable to trafficking**. It calls upon member States to address root causes of irregular migration as well as to expand access to regular migration channels. Irregular migration, including trafficking, cannot be addressed without building greater capacity for African States to govern migration in all its aspects.

Much East African labour migration is destined for Gulf States; **a regional approach to labour migration agreements** with receiving countries could strengthen protection for migrants from unethical recruitment channels. With some African countries already hosting resources for their citizens working abroad in some Gulf States, **a principle of reciprocity** allowing workers abroad to access support regardless of their nationality would increase protections for all East African labour migrants. This reflects recommendations from the Inter-Agency Coordination Group Against Trafficking in Persons (ICAT), which recommended the creation of stronger regional protections for migrant workers. Harmonization of labour standards across East Africa would also support fair labour practices for migrants within the region.

Employ Regional Economic Communities (RECs) to review and amend legislation on trafficking in persons in all East African countries in order to harmonize definitions of the offence, referral pathways, and support for victims. The East African Community Trafficking in Persons Bill of 2016,[3] which has not yet been enacted into law, could provide one framework for such an approach. As RECs share borders, economic and social ideals, and similar manifestations of trafficking, they can provide additional support to a State-led response to address trafficking. This should also prioritize a coordinated system for screening at borders.

Increase the use of human rights frameworks and their instruments in the approach to trafficking, including in the Khartoum Process. Use the African Charter on the Rights and Welfare of the Child[4] and the African Charter on Human and Peoples' Rights[5] to increase accountability for States to implement protection of children, including refugee and internally-displaced children, through the African Committee of Experts and the African Commission on Human and Peoples' Rights.

[1] UN Committee Against Torture (CAT), "Implementation of Article 2 by States Parties," 24 January 2008, CAT/C/GC/2, https://www.refworld.org/docid/47ac78ce2.html.

[2] African Union, "The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)," Addis Ababa: 27 March 2018, https://au.int/sites/default/files/newsevents/workingdocuments/32718-wd-english_revised_au_migration_policy_framework_for_africa.pdf.

[3] The East African Community, "Community Counter-Trafficking in Persons Bill 2006," Arusha, 19 August 2016, https://www.eala.org/index.php?/documents/view/the-eac-counter-trafficking-in-persons-bill2016.

[4] African Union, "African Charter on the Rights and Welfare of the Child," Addis Ababa, 29 November 1999, https://au.int/en/treaties/african-charter-rights-and-welfare-child.

[5] Organization of African Unity "African Charter on Human and Peoples' Rights," Banjul, 21 October 1986 https://www.achpr.org/legalinstruments/detail?id=49.

Currently, the UN High Commissioner for Refugee Office of the Special Envoy for Mediterranean Routes is analysing movement across the Sahel and East Africa to map available support[6] for refugees, migrants and victims of abuses such as trafficking. This mapping is intended to **strengthen operational responses along African migration routes**. Similarly, the UNHCR-International Organization for Migration Global Protection Cluster is working to address trafficking in the context of internal displacement.

As States develop national coordination mechanisms on migration based on the Global Compact for Safe, Orderly and Regular Migration,[7] they should include sections on implementation of the Global Compact on Refugees[8] to **ensure that responses to refugees and migration are not done in silos**. At a regional level, approaches to this harmonization of the two Compacts could be addressed through the annual consultative process for all Intergovernmental Authority on Development (IGAD) countries.

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[6] United Nations High Commissioner for Refugees, *Mapping of Protection Services for Victims of Trafficking and Other Vulnerable People on the Move in the Sahel and East Africa* (Geneva: UNHCR, 2021), https://www.unhcr.org/protection/migration/60ded10b4/mapping-protection-services-victims-trafficking-other-vulnerable-people.html.

[7] Office of the United Nations High Commissioner for Human Rights, *Global Compact for Safe, Orderly, and Regular Migration (GCM)* (Marrakesh: OHCHR, 2018), https://ohchr.org/EN/Issues/Migration/Pages/GlobalCompactforMigration.aspx.

[8] United Nations High Commissioner for Refugees, *The Global Compact on Refugees* (New York: United Nations, 2018) https://www.unhcr.org/en-us/the-global-compact-on-refugees.html.

PARTNERSHIPS, COLLABORATION AND CAPACITY-BUILDING

Uganda has comprehensive laws and policies in place to address both refugee support and anti- trafficking measures. The Ministry of Internal Affairs manages coordination of anti-trafficking response within its Coordination Office for the Prevention of Trafficking in Persons (COPTIP), which acts as Secretariat for the National Task Force Against Human Trafficking. The National Task Force has been developing a database, informed by the National Referral Guidelines for Management of Victims of Trafficking. This database will launch soon and will require sustained and continuous training of stakeholders on its use for referrals.

The Office of the Prime Minister (OPM) manages refugee status determination and documentation with the support of other national and international agencies, and it represents refugee matters at the National Task Force level. Workshop participants noted a lack of clarity, however, regarding who holds the responsibility for documentation of trafficking in refugee populations, what information is gathered, or how it is shared. Some cases of trafficking do come to OPM, particularly as Uganda's refugee acceptance policy provides some opportunity for trafficked people to be moved across borders under the disguise of seeking asylum. When such cases are identified in refugee screenings, they are referred to legal authorities to proceed with investigation and prosecution.

The 2009 Prevention of Trafficking in Persons Act is described as both progressive and comprehensive in terms of its provisions, but the workshop conversation suggested that issues remain in implementation, including levels of comprehension and knowledge among duty bearers and front-line responders charged with its implementation. The Office of the Director of Public Prosecutions (ODPP) has taken on an increasingly active role in investigations of trafficking cases and has found that approach to generate better cooperation and evidence, leading to more successful prosecution. ODPP has experienced documentation challenges where identification takes place through investigation of sexual crimes, or when cases are referred to the Department of Sexual Crimes because it is better capacitated to prosecute cases. As with the international humanitarian context described above, this probably results in an undercount of trafficking cases.

Civil society organizations (CSOs) have worked with the Government to support anti-trafficking measures. The Uganda Coalition Against Trafficking in Persons (UCATIP) brings together civil society actors who work across the full range of anti-trafficking activities nationally, and they hold membership within COPTIP.

The most significant gap, cited throughout pre- workshop interviews and in the workshop itself, is a lack of resources and funding. Lack of capacitation creates challenges for CSOs as well as government actors to effectively coordinate, including coordination across borders. Insufficient shelters and survivor support systems cause people who have experienced trafficking to drift away from participation in documentation, investigation and prosecution processes. Men may be particularly likely to disappear from documentation and justice processes, as there are significantly fewer shelters or support services available to them, and few options for a family to receive support together. These capacity issues worsen in remote areas, meaning that trafficking is likely to be unevenly identified and documented across Uganda.

Recommendations

Coordination between refugee protection systems and anti-trafficking authorities would improve identification and prevention of trafficking in Uganda. To achieve this, there is a need for more synergies between asylum actors and those working on trafficking. One promising model for this can be seen in the collaboration between UNHCR's Country Office in Italy and the Italian Asylum Commission to define procedures to identify trafficking within the asylum process.

The anti-trafficking unit in the ODPP will require additional resources to manage identification, investigation and documentation of trafficking cases, including funding to police. Having prosecutors lead investigations with police will achieve the best admissible evidence. During the COVID-19 pandemic, reported cases increased while capacity to investigate was diminished by lockdowns. These cases should address and documented, and investigators need more resources to achieve this.

The investigation and documentation of trafficking in Uganda requires clear referral pathways through victim protection guidelines, including child-centred spaces and separate spaces where male and female victims can access support. This should include a national witness protection act. The ODPP maintains child-centred spaces in all 16 regional offices for children who have experienced trafficking, and field officers should use this resource.

As trafficking is identified and remedied at local levels, **a local approach is needed to organize against trafficking**. This may require reframing trafficking in ways that are comprehensible and applicable to local contexts. Funders need to draw on local and grassroots expertise to shape projects, including survivor expertise, and community actors and stakeholders should be engaged throughout the implementation process.

Similarly, **anti-trafficking resilience would be improved by better community education**, including among refugee communities, duty bearers and host communities. While there is some awareness of trafficking, many communities are not aware of its nuances: that it can take place without border crossing, that it can take place with parental consent, and that it can be embedded in traditional cultural practices. Information should be presented in local languages and in ways that recognize local contexts.

As also noted in the AU Migration Policy Framework (discussed above), **root causes and push factors need to be addressed to address vulnerability to trafficking**. Trafficking results from both social and economic exclusion, and in sensitizing vulnerable individuals and communities to their risk, the context in which they encounter risk must be addressed. A consideration of push factors to risky migration should be combined with creations of programmes for community and individual resilience (for example, self-help groups, savings and loans, skills and livelihoods training).

Robust partnerships will address trafficking more successfully than a single approach. Trafficking cannot be left to be addressed solely through a prosecutorial lens: it is important to engage with a plurality of actors. The health-care sector has a major role in the identification of trafficking as well as its remediation and in support to survivors. Within national contexts, international non- governmental organizations are critical to support the identification and referral of cases, as well as provision of support. This can include offering training to duty bearers (such training should be peer-reviewed and accredited), offering community support and sensitization and monitoring of progress.

Ongoing education and training of duty bearers is necessary to properly identify and prevent trafficking. This includes training on identification of all acts of trafficking, including recruitment, transport, and harbouring of victims. Duty bearers may not be aware that family members and friends of the victim may be culpable in trafficking.

IDENTIFICATION AND DATA

The Uganda Ministry of Internal Affairs adopted National Referral Guidelines for Management of Victims of Trafficking with the launch of its second National Action Plan in July 2020. Despite progress in training and capacity-building for identification and referrals, documentation of cases of trafficking among refugees and asylum seekers in Uganda is an ongoing challenge due to a variety of factors. One has been the difficulty of screening in mass displacement contexts where the responsible agents have limited screening capacity. In discussion on whether agents should be held responsible for failure to identify victims through screening, workshop participants noted that victims are not always aware they are being trafficked or do not consider themselves to be victims of trafficking, and even if they do, are frequently coached to evade detection by those involved in the screening system.

Additionally, the varied experiences of people on the move may include trafficking as well as smuggling; an experience of trafficking can lead to asylum-seeking, and a person who has been granted refugee status may then be trafficked. This can complicate the screening and documentation process.

In some cases, lack of identification may result from tensions between local experiences and values, and national or international frameworks to address human trafficking and protection of vulnerable communities. Among local communities, individuals may be willing to accept conditions that may not align with international or national standards — child labour and child marriage being two examples of this. Terminologies that describe the forms of exploitation experienced by communities and individuals may alienate those individuals or their communities (as in the use of the term "slavery" in the African context).

Other issues cited that impede effective identification and prosecution of trafficking in persons in Uganda include a lack of awareness at local levels of the existence of a National Referral Mechanism, and a lack of clarity about which agency inputs a case into COPTIP's case documentation database.

Beyond the negative consequences for the victim (from risk of re-trafficking to the loss of necessary long-term support), the lack of proper identification of trafficking has other risks: the lack of accountability for the crime of trafficking at international and national levels leads to continued impunity for perpetrators and results in victims who see no value in disclosure. One recent example of this can be seen in Ethiopia, where reports to the Office of the High Commissioner for Human Rights and the Ethiopian Human Rights Commission described incidents[9] the category of trafficking for sexual exploitation. They were not, however, described, investigated or prosecuted as such, allowing continued impunity and depriving victims and survivors of assistance and protection.

Finally, data collection and documentation are necessary for improved identification and effective anti-trafficking work, and the lack of accurate data on trafficking of refugees and asylum seekers impedes the prevention of exploitation of these communities. The under- identification of certain categories of victims of trafficking (for example, men, boys and LGBTQ persons) results in a lack of adequate support for them as well as the continuation of exploitation.

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[9] "Deputy High Commissioner for Human Rights Urges All Parties to Pull Back from a Posture of War in Ethiopia," United Nations Information Service in Geneva, 17 December 2021, https://www.ohchr.org/en/press-releases/2021/12/deputy-high-commissioner-human-rights-urges-all-parties-pull-back-posture.

Recommendations

All duty bearers who interact with refugee communities require specialized training on how trafficking presents itself in local contexts. This includes police, military, administrators and community leaders. Definitions of trafficking should be wider to include local contexts and experiences. Trafficking enumerators should not approach trafficking purposes listed in the Palermo Protocol as exhaustive. **The health-care sector is well-positioned to identify cases of trafficking as well as provide general screening of vulnerable communities and should be part of front-line response.**

Data collection should be integrated into existing systems. Where direct questions may be generally less effective, it may be more useful to look at proxy/indirect indicators. For humanitarian actors in global protection cluster systems, data collection in displacement contexts occurs in the process of registration and needs assessments. Appropriate identification and reporting can be limited by the brevity of screening processes. In these cases, a successful approach to identification or estimation of prevalence can be to **triangulate administrative data with front- line agents' experiences of what is happening on the ground**: who is entering settlements regularly or who is offering employment to residents. This approach may offer useful direction on the types and prevalence of risks to guide later interventions and discussions.

However, such an approach should also include **follow-up research to test whether such assumed prevalence is accurate** and to provide a fuller picture of the types of trafficking experienced by refugees and asylum seekers. Proxy indicators require further research to determine which actually lead investigators to situations of trafficking (or vulnerability to trafficking).

When collecting data, investigators should respect the agency of the person they are surveying and take care to avoid unnecessary or repetitive questioning that may risk re traumatization. **Data collection should be victim-centred**, and to collect information, it is important to not treat trafficked persons as offenders. Trafficked persons need to be informed of rights, confidentiality, consent and court procedures in a language they understand. A victim-centered and survivor informed approach can support the development of better questions to identify trafficking cases with lower risk of re- traumatization.

ANNEX: RESEARCH AND RESOURCES

The following resources were suggested by participants before and during the workshop:

MORE INFORMATION ON TRAFFICKING, REFUGEES, AND PEOPLE ON THE MOVE IN UGANDA AND IN THE EAST AFRICA REGION:

- Uganda: Refugee Policy Review Framework Country Summary as of 30 June 2020 (March 2022): https://reliefweb.int/report/uganda/uganda-refugee-policy-review-framework-country-summary-30-june-2020-march-2022

- Government of Uganda Office of the Prime Minister: Uganda Refugees & Asylum Seekers as of 30 November 2021: https://reliefweb.int/report/uganda/government-uganda-office-prime-minister-uganda-refugees-asylum-seekers-30-november

- OMCT Report: The Torture Roads: The Cycle of Abuse Against People on the Move in Africa: https://www.omct.org/site-resources/files/The-Torture-Roads.pdf

- On this journey, no one cares if you live or die. Abuse, protection, and justice along routes between East and West Africa and Africa's Mediterranean coast: https://www.unhcr.org/protection/operations/5f2129fb4/journey-cares-live-die-abuse-protection-justice-along-routes-east-west.html

- Mapping of Protection Services for Victims of Trafficking and Other Vulnerable People on the Move in the Sahel and East Africa: https://www.unhcr.org/protection/migration/60ded10b4/mapping-protection-services-victims-trafficking-other-vulnerable-people.html

- University of Nottingham Rights Lab Reports on Community Resilience in Senegal and Kenya:

    - Senegal: https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/july/building-resilience-against-exploitation-in-senegal-in-the-context-of-covid-19.pdf

    - Kenya: https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/july/building-resilience-against-exploitation-in-kenya-in-the-context-of-covid-19.pdf

MORE INFORMATION ON FRAMEWORKS FOR PROTECTION:

- An Introductory Guide to Anti-Trafficking Action in Internal Displacement Contexts: https://www.globalprotectioncluster.org/2020/11/26/an-introductory-guide-to-anti-trafficking-action-in-internal-displacement-contexts/

- IOM Guide to Counter-trafficking in Emergencies: https://publications.iom.int/books/countertrafficking-emergencies-information-management-guide

- IOM Handbook on Protection and Assistance to Migrants Vulnerable to Violence, Exploitation and Abuse: https://publications.iom.int/books/iom-handbook-migrants-vulnerable-violence-exploitation-and-abuse

- Delta 8.7 Crisis Policy Guide: http://collections.unu.edu/eserv/UNU:8065/Delta87_CrisisPolicyGuide.pdf

- 20 Years After Palermo Protocol: Towards a stronger East African regional anti-trafficking framework: https://ohrh.law.ox.ac.uk/20-years-after-palermo-protocol-towards-a-stronger-east-african-regional-anti-trafficking-framework/

- Prevention is better than cure: The states obligation to prevent child trafficking: https://www.universiteitleiden.nl/binaries/content/assets/rechtsgeleerdheid/instituut-voor-privaatrecht/jeugdrecht/prevention-is-better-than-cure---the-states-obligation-to-prevent-child-trafficking.pdf

HEALTH-CARE SECTOR RESPONSE, BEST PRACTICE AND TOOLS

- PEARR Tool: https://healtrafficking.org/resources/pearr-tool/

- Heal Trafficking - Disabilities: https://healtrafficking.org/disabilities

DATA AND MEASUREMENT

- Somali NGOs collaborate to map regional trafficking routes: https://delta87.org/2021/12/somali-anti-trafficking-csos-embrace-information-sharing-regions-first-collaborative-data-collection-exercise/

- Mapping of Kenyan' human trafficking routes data highlights regional dynamics: https://freedomcollaborative.org/kenya-data-collection-eng

- Global synthetic dataset on human trafficking: https://www.iom.int/news/iom-microsoft-collaboration-enables-release-largest-public-dataset-bolster-fight-against-human-trafficking

- Counter Trafficking Data Collaborative (CTDC) Global Data Hub: https://www.ctdatacollaborative.org/

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