TRAFFICKING OF WOMEN: NORMS, REALITIES, AND CHALLENGES

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INTRODUCTION

“It ought to concern every person, because it’s a debasement of our common humanity. It ought to concern every community, because it tears at the social fabric. It ought to concern every business, because it distorts markets. It ought to concern every nation, because it endangers public health and fuels violence and organized crime. I’m talking about the injustice, the outrage, of human trafficking, which must be called by its true name—modern slavery.”

-U.S. President Barack Obama, September 25, 2012

Human trafficking for sexual and labor exploitation is a transnational, global phenomenon having an impact on all countries—whether as source, origin, or destination countries. It is a prevalent human rights abuse perpetrated mostly against women and children. The abolition of the slave trade has not ended the exploitation and tragedy of human trafficking and sexual slavery, which has been called “the most common form of modern-day slavery.” It is prevalent in many countries and manifests in different ways. Despite advancements in technology, data collection, and legislative developments, human trafficking for exploitative purposes is currently on the rise in different parts of the world. Women and children are trafficked and exploited for numerous reasons including poverty, lack of education, civil wars, conflict and disaster related displacements, peer pressure, inducements, vulnerability, and lack of access to adequate information. In the 2006 report of the United Nations (U.N.) Secretary-General, it is “asserted unequivocally that

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violence against women [including trafficking and sex slavery] constitutes a form of gender-based discrimination and that discrimination is a major cause of such violence.”

The issue of trafficking of women for sex and labor exploitation is of such gravity that a number of special procedures mechanisms of the United Nations Human Rights Council, including the Mandate on Violence Against Women, Its Causes and Consequences, have paid particular attention to specific aspects of this topic. The Mandate on Violence Against Women was created in 1993 and has consistently raised the issue, particularly in country mission reports. In 2004, a specific mandate devoted to “Trafficking in Persons, especially women and children,” was also established. This paper highlights the focus and analysis of the work carried out by both mandates, including legal frameworks for the protection for women trafficked for sexual exploitation. The focus will be on the transnational trafficking of women. This paper also discusses challenges militating against effective remedies for victims of trafficking.

Trafficking in persons must be viewed within the context of international and national movements and migrations that are increasingly occurring due to economic realities, globalization, the feminization of migration, armed conflict, the breakdown or reconfiguration of the State, and the transformation of political boundaries. “Women move and are moved, with and without their consent,” for different reasons and purposes, including for the purposes of sex and labor trafficking. “Violence and threats of violence are common—perhaps the most common—forms of

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coercion employed against trafficked women.”

Freedom of movement demands may be met with “violence, including, but not limited to rape, torture, arbitrary execution, deprivation of liberty, forced labour and forced marriage…” In addition, “discriminatory policies and practices . . . particularly those that seek to curb women’s movement,” contribute to creating a climate in which coerced movement occurs. “Such violations are [sometimes] officially tolerated, [and,] in some cases perpetrated by State actors.”

In its 2012 Global Report on Trafficking in Persons (“Global Report”), the United Nations acknowledges the gravity and global nature of human trafficking. Nevertheless, it notes that “estimating the severity of the problem remains a challenge” as trafficking largely remains a hidden crime, which is scarcely reported to state agencies. In the end, “it is impossible to measure the scale of trafficking in persons using only official criminal justice statistics even though they can provide valuable information on patterns and flows, as well as on how the police, prosecutors and courts respond to trafficking cases.”

The Global Report states that women and girls account for seventy-five percent of all trafficked victims worldwide. It is acknowledged that trafficking in women and girls is one component of a larger phenomenon of trafficking in persons, including both male and female adults and children.

Human trafficking for sexual exploitation and sex slavery involves the exercise of powers attaching to the right of ownership of another, and involves the commodification and sale of human beings for purposes of exploitation. Both concepts limit the options available to the victim and infringe on individual autonomy to decide whether to engage in intimate relationships, and with whom. One commentator has explained the link between human trafficking and slavery as follows:

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11 Id. at ¶ 38.
12 Id. at ¶ 4.
13 Id.
14 Id.
16 Id.
17 Id.
18 Id. at 7.
19 See id. at 25.
The link between trafficking and traditional chattel slavery is immediately obvious. Both practices involve the organized movement of individuals, generally across national borders, for exploitative purposes. Both are primarily conducted outside the public realm by private entities for private profit. Both seek to secure control over individuals by minimizing or even eliminating personal autonomy. Neither system can be sustained without massive and systematic violations of human rights.

In Rantsev v. Cyprus and Russia, the European Court of Human Rights held as follows:

[T]rafficking in human beings, by its very nature and aim of exploitation, is based on the exercise of powers attaching to the right of ownership. It treats human beings as commodities to be bought and sold and put to forced labour, often for little or no payment, usually in the sex industry but also elsewhere. It implies close surveillance of the activities of victims, whose movements are often circumscribed. It involves the use of violence and threats against victims, who live and work under poor conditions. It is described . . . as the modern form of the old worldwide slave trade.

Forced labor is closely linked to human trafficking, but these manifestations are not the same. A distinction must be made between victims subjected to some form of compulsion to accept egregious labor conditions because they simply lack alternatives, and those where a third party forces them to work against their will. In this context, in many countries bonded or forced labor falls within the category of trafficking, but the gathering of data regarding such cases remains problematic.

The International Labour Office (ILO) in one study found that at least 12.3 million people were victims of forced labor worldwide and estimated the minimum number of persons in forced labor as a result of human trafficking to be around 2.4 million at any given time. In another report, the ILO estimated the worldwide

23 Id. (citations omitted).
24 Gallagher, supra note 21, at 25.
profits produced from the world’s 2.5 million trafficked laborers to be in the region of U.S. $31.6 billion every year.\textsuperscript{27} As illustrated in the table below, it is evident that there are huge geographic disparities between regions and that more than half (about 1.36 million) of the total figure of trafficked persons in forced labor are from Asia and the Pacific.

**Table One: Regional Distribution of Trafficked Forced Labourers\textsuperscript{28}**

<table>
<thead>
<tr>
<th>Region</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asia and the Pacific</td>
<td>1,360,000</td>
</tr>
<tr>
<td>Industrial Countries</td>
<td>270,000</td>
</tr>
<tr>
<td>Latin America and the Caribbean</td>
<td>250,000</td>
</tr>
<tr>
<td>Middle East and North Africa</td>
<td>230,000</td>
</tr>
<tr>
<td>Transition Countries</td>
<td>200,000</td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>130,000</td>
</tr>
<tr>
<td>World</td>
<td>2,450,000</td>
</tr>
</tbody>
</table>

In situations of forced labor and slavery-like practices “[w]hether locked in a sweatshop or factory, or locked in a brothel . . . trafficked women are often subjected to arbitrary and enforced deprivation of liberty at the hands of both non-State and State actors.”\textsuperscript{29} The movement of women is “either overtly impeded through locks, bars and chains or less conspicuously . . . restricted by confiscation of their passports, and travel documents . . . threats of retaliation against family members . . . and physical violence.”\textsuperscript{30} “Traffickers use the law, and the threat of deportation, to their advantage” to coerce compliance.\textsuperscript{31}

Trafficking also often happens in the context of prostitution/sex work.\textsuperscript{32} The Netherlands, at the time of the visit of the Violence Against Women Mandate in 2006, had many detected trafficking cases related to the sexual exploitation of women and girls.\textsuperscript{33}


\textsuperscript{28} ILO, *supra* note 26, at 14.

\textsuperscript{29} Coomaraswamy Report, *supra* note 10, at ¶ 39.

\textsuperscript{30} Id.

\textsuperscript{31} Id.


Although the sex sector is regulated in the Netherlands, a gray sector continues to exist involving migrant women who are not entitled to work permits under national law.\textsuperscript{34}

I. SOME CAUSES AND CONSEQUENCES

Causes of human trafficking and sexual slavery are many. Two major causes of human trafficking and sexual slavery are poverty and globalization.\textsuperscript{35} Poverty and unemployment have made many families susceptible to traffickers who prey on their ignorance, lack of education, and lack of economic means.\textsuperscript{36} The root causes of trafficking and migration under coercive circumstances share common and overlapping features. Often, violations of women’s human rights are the primary causative factor. The failure of the State to respect, protect, and fulfill women’s rights can lead to sexual and economic exploitation of women in both public and private spaces.

The failure of existing economic, political and social structures to provide equal and just opportunities for women to work has contributed to the feminization of poverty, which in turn has led to the feminization of migration, as women leave their homes in search of viable economic options [and life opportunities.].\textsuperscript{37}

“[F]amily structures, which are based on the maintenance of traditional [gender] roles and the [gendered] division of labour,” often lead to discrimination and violence.\textsuperscript{38} The Special Rapporteur on Violence Against Women conducted a joint visit to Moldova with the Special Rapporteur on Torture in 2008.\textsuperscript{39} The report examines how victims of trafficking feel “the need to escape an abusive family and community environment as a factor . . . linked to trafficking.”\textsuperscript{40} Citing an International Organization of Migration study, the report states that “80

\textsuperscript{34} Mission to the Netherlands, supra note 33, at ¶¶ 79–81.


\textsuperscript{36} See Global Report, supra note 15, at 92.

\textsuperscript{37} Coomaraswamy Report, supra note 10, at ¶ 58.

\textsuperscript{38} Id. at ¶ 57.


\textsuperscript{40} Mission to the Netherlands, supra note 33, at ¶ 31.
percent of the women and girls trafficked from Moldova were victims of domestic violence before being trafficked,” and this violence continued after their return home.41

In a number of countries with porous borders and weak institutions, and where the rule of law is not enforced, trafficking is pervasive. During a mission to Somalia, for example, the Special Rapporteur on Violence Against Women was informed that

configuration occurs through the country’s border areas with Ethiopia where a significant number of [Somali and Ethiopian] women and children . . . often find themselves in involuntary domestic servitude or other types of forced labour. Often these women do not speak the language and find themselves with no other options.”42

Some women are also

attracted by the opportunity to cross the Red Sea and often find themselves trafficked by pirates who operate along the coast and who are actively involved in commercial sexual exploitation. Often young women are offered jewels and other presents by local Somali women recruiters. They are offered marriage proposals or promised employment to pay their passage across the sea.43

As is often the case, unfortunately, “the victims never receive the money promised and end up in exploitative situations.”44

The consequences of trafficking include exposure to physical, sexual, and psychological violence.45 Trafficking impacts victims in virtually all areas of their lives, carrying a prolonged and continued trauma, which can continue well after their experience. Throughout the period in which victims are being trafficked, acts of physical, sexual, and psychological abuse, violence, ill-treatment, deprivation, the forced use of drugs, exploitation, and poor living conditions can be part of the experience.46 Victims are

41 Id.


43 Id. at ¶ 31.

44 Id.


46 See id. at ¶ 57; U.N. Office on Drugs & Crime, An Introduction to Human Trafficking: Vulnerability, Impact and Action 9 (Background Paper 2008)
usually at high risk of sexually transmitted disease, including HIV infection. 47 The risk of “post-traumatic stress disorder, anxiety, depression, alienation, disorientation, aggression and difficulty concentrating” continue to be part of the consequences of trafficking. 48 Also, the stigma attached to them can be a source of rejection in their family and in the community. 49 It is argued that there is no guarantee that a victim will recover from the long-term consequences of their experience, and many women and girls experience re-victimization in similar ways.50

Once trapped or bought by those who desire their services, victims of human trafficking and sexual slavery “are at the mercy of those to whom they must repay a debt or to those who have seized their documentation or are threatening to harm their families back home.” 51 According to Louise Shelley,

The costs of human trafficking are experienced on the individual, community, national, regional, and global level. They affect not only source countries but also transit and host countries. . . . Trafficking challenges states’ control over their borders and their ability to determine who will reside on their territory. It undermines states because trafficking can survive only with the corruption and complicity of government officials. 52

II. INTERNATIONAL NORMATIVE FRAMEWORK

International law relating to the exploitation of human beings has an extensive history that dates back to 1904, when the first binding international instrument, the International Agreement for the Suppression of the White Slave Trade, was adopted under the auspices of the League of Nations. 53 This was adopted by thirteen European countries that wanted to put an end to the sale of women into prostitution as a result of the economic stagnation experienced during that period. 54 However, the agreement did

47 Ngozi Ezeilo Report I, supra note 45, at ¶ 57.
48 Human Trafficking Intro, supra note 46, at 9.
49 Id.
50 Id. at 9, 82.
51 ALEXIS A. ARONOWITZ, HUMAN TRAFFICKING, HUMAN MISERY 7 (Praeger Publishers 2009).
52 LOUISE SHELLEY, HUMAN TRAFFICKING 59 (Cambridge Univ. Press 2010).
54 TOM OBOKATA, TRAFFICKING OF HUMAN BEINGS FROM A HUMAN RIGHTS
not contribute much to the suppression of human trafficking for sexual exploitation, as there was no enforcement mechanism to ensure its success.\textsuperscript{55} This resulted in the adoption of the International Convention for the Suppression of White Slave Traffic in 1910.\textsuperscript{56} This international instrument did not deal with the issue of prostitution but mainly with the “procurement and transportation of women and girls[.]”\textsuperscript{57}

The campaign to end human trafficking and sexual exploitation led to the adoption of numerous other international instruments dealing specifically with this issue.\textsuperscript{58} These included legal instruments to deal with the issue of slavery and forced labor, including the Slavery Convention of 1926, the ILO Forced Labour Convention No. 29 of 1932, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery of 1956, and the ILO Abolition of Forced Labour Convention No. 195 of 1969.\textsuperscript{59} There is no specific mention of trafficking in these international instruments.\textsuperscript{60}

\textsuperscript{55} OBOKATA, supra note 54, at 14.


\textsuperscript{57} OBOKATA, supra note 54, at 15.


\textsuperscript{59} Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926, 60 L.N.T.S. 253; Forced Labour Convention, 1930 (No. 29), (June 28, 1930); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3 (entered into force April 30, 1957).

\textsuperscript{60} See generally Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926, supra note 59; Forced Labour Convention, supra note 59; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, supra note 59.
The first explicit mention of trafficking appears in the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Article 17 provides that “[t]he Parties to the present Convention undertake, in connection with immigration and emigration, to adopt or maintain such measures as are required, in terms of their obligations under the present Convention, to check the traffic in persons of either sex for the purpose of prostitution.” The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in Article 6, provides that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. Furthermore, CEDAW General Recommendation No. 19 added the issue of violence against women to the terms of the Convention and into the international legal norm of non-discrimination, on the basis of sex. According to General Recommendation No. 19, poverty and unemployment broaden opportunities for trafficking in women and girls, tending to drive them into prostitution and exposing them to gender-based violence, which emanates from social stereotyping and stigmatization of prostitution. The General Recommendation provides that gender-based violence impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions.

Further, General Recommendation No. 19 recognizes that discrimination prohibited under CEDAW is not limited to conduct by or on behalf of state agencies, and requires States to “take appropriate and effective measures to overcome all forms of gender-based violence, whether by private or public act.” It must be highlighted that sex slavery meets the definitional elements of gender-based violence, which is defined as “a form of discrimination that seriously inhibits women’s ability to enjoy

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62 Id. at art. 17.
64 Id. at ¶ 14, 15.
65 Id. at ¶ 4.
66 Id. at ¶ 9.
67 Id. at ¶ 24(a).
rights and freedoms on a basis of equality with men." More importantly, however, the CEDAW Committee has broadened the scope of gender-based violence to include “acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”

In 2000, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, commonly referred to as the Palermo Protocol, was adopted by the United Nations General Assembly and was the first international legal instrument on trafficking in persons which contained a legally binding definition of trafficking. This instrument forms part of the United Nations Convention against Transnational Organized Crime, and contains important standards for the protection and assistance of victims, including a mandated state responsibility to cooperate to prevent and combat trafficking. The Protocol defines human trafficking as:

[T]he 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 exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

To qualify as human trafficking, the process or conduct in question should involve three elements. First, there must be an action which may take one or more forms stated in the relevant provision. This action includes “recruitment, transportation, transfer, harboring or receipt of persons.” Second, the trafficking should be done through unlawful means, such as “the

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68 Id. at ¶ 1.
69 General Recommendation No. 19, supra note 63 at ¶ 6.
73 Dempsey, et al., supra note 71, at 143.
74 Id.
75 Palermo Protocol, supra note 72, at annex II, art. 3(a).
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 a person in control of the victim.\textsuperscript{76} It is evident that the scope of actions which constitute human trafficking is wide enough to cover both passive and active means of facilitating or carrying out human trafficking. Article 3 (a) of the Protocol on Trafficking in Persons was intended to respond adequately to the scourge of human trafficking, especially the need to criminalize every form of coercion or deception. The Protocol acknowledges that human trafficking is a complicated process perpetrated not only by criminals working on the ground, but also by persons working away from the primary crime.\textsuperscript{77}

Third, for conduct to constitute human trafficking, it must be done to achieve a particular criminal goal, namely, the exploitation of the trafficked person.\textsuperscript{78} The term exploitation is defined broadly to include exploiting “the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar practices similar to slavery, servitude or the removal of organs.”\textsuperscript{79} These dimensions of exploitation and the other elements of trafficking briefly discussed above suggest that human trafficking is not a single crime, but rather a process designed to achieve broad and specific criminal ends. Generally, the approach taken in the Protocol on Trafficking in Persons recognizes that the majority of perpetrators of human trafficking and sex slavery function in large and complicated networks of organized crime. It is important to note that the Protocol also criminalizes “attempts to commit a trafficking offence[,] participation as an accomplice in such an offence[, and] organizing or directing others to commit trafficking.”\textsuperscript{80}

The definition of trafficking is a welcome development, as it provides a minimum standard for the protection of victims of human trafficking. However, some scholars have argued that a weakness of the definition is “its excessive focus on criminalizing traffickers to the detriment of making protection of trafficked

\textsuperscript{76} Id.; Dempsey, et al., supra note 71, at 143.

\textsuperscript{77} See generally Palermo Protocol, supra note 72, at annex II, art. 4.

\textsuperscript{78} Dempsey, et al., supra note 71, at 144.

\textsuperscript{79} Palermo Protocol, supra note 72, at annex II, art. 3(a).

person[s] the priority.”\textsuperscript{81} It is further argued that “[a]lthough the Protocol includes measures to protect trafficking victims, the signatories are not mandated to include them at the top of their priority list.”\textsuperscript{82}

Nevertheless, the Protocol has become the key international instrument that has accelerated legislative and policy actions to respond to and prevent trafficking, as required by Article 5 of the Palermo Protocol.\textsuperscript{83} Many countries have introduced the specific offence of trafficking in persons in their national laws, after the Palermo Protocol entered into force.\textsuperscript{84} Prior to that, many countries had no specific anti-trafficking legislation, but this figure was reduced to twenty percent by November 2008.\textsuperscript{85} The Palermo Protocol does not include an international review mechanism to strengthen the ability to monitor its implementation at the national level.

The United Nations Office of The High Commissioner for Human Rights has adopted a “soft law,” namely, the Recommended Principles and Guidelines on Human Rights and Human Trafficking (“Guidelines”).\textsuperscript{86} The Guidelines encourages States to “adopt appropriate legislative and other measures necessary to establish, as criminal offences, trafficking, its component acts and related conduct.”\textsuperscript{87} The latest development in the field of non-legally binding standard setting initiatives is the adoption of the Global Plan of Action to Combat Trafficking in Persons in 2010 by the General Assembly.\textsuperscript{88} This plan urges governments to take coordinated and consistent measures to fight trafficking, and calls for the integration of the fight against trafficking within the U.N.’s broader programs, and for the establishment of a voluntary trust fund for victims of


\textsuperscript{82} Id.

\textsuperscript{83} Palermo Protocol, supra note 72, at annex II, art. 5.

\textsuperscript{84} Global Report, supra note 15, at 83. See Dempsey, et al., supra note 71 at 139, 147.

\textsuperscript{85} Global Report, supra note 15, at 83.


\textsuperscript{88} G.A. Res. 64/293, U.N. Doc. A/RES/64/293 (Aug. 12, 2010).
trafficking.\textsuperscript{89}

As regards sex slavery, in terms of the Slavery Convention, slavery is “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”\textsuperscript{90} In practical terms, slavery exists when one person owns another and is entitled to the services of the latter person without any obligation to give remuneration for such services. From this definition it can be deduced that sex slavery exists when one person is coerced to provide one’s sexual services (or offer their bodies for the sexual gratification of another person) without receiving any of the proceeds that emanate from one’s services. However, not all sex labor amounts to human trafficking and sex slavery. Instances of voluntary prostitution, where sex workers sell their services for an agreed upon price, do not constitute sex slavery.\textsuperscript{91} Arguably, this can be so even where the persons may have been initially transported to a particular country or place by force or deception, and later regained their freedom, whether by accident or by design. The critical factor appears to be the relative freedom of the exploited individual to continue selling or to terminate his or her “employment” and return to his or her home.\textsuperscript{92}

Nonetheless, there are other compelling legal reasons why the idea of slavery in general, and sex slavery in particular, should be construed or applied in ways that extend their reach to situations that are generally associated with trafficking, including debt bondage, forced labor, and obligatory prostitution. Expanding the definition of sex slavery to include all forms of sexual exploitation would protect many victims who are often trafficked and used as objects for the benefit of persons who are holding them in circumstances of physical control by force, threat of serious harm, or through deception. The prohibition on slavery constitutes a rule of customary international law which applies universally,\textsuperscript{93} and the state’s non-ratification of relevant treaties would not be a bar to holding a State accountable for non-action on any form of sex slavery taking place within its territories. Second, the prohibition on slavery has generally been categorized as a legal

\textsuperscript{89} Id. at 4, 7, 9.
\textsuperscript{90} See Slavery Convention, Sept. 25, 1926, 1197 L.N.T.S. 263.
\textsuperscript{91} Urban Justice Ctr., Human Trafficking and Sex Work 1 (2007).
\textsuperscript{92} See Christal Morehouse, Combating Human Trafficking 96 (2009).
\textsuperscript{93} Prosecutor v. Kunarac, Case No. IT-96-23-T & IT-96-23/1-T, Judgement, ¶ 520 (Feb. 22, 2001).
obligation *erga omnes*, and as forming part of *jus cogens* or peremptory norms of international law.\(^{94}\) An obligation *erga omnes* generally derives “in contemporary international law” and “the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination.”\(^{95}\) A *jus cogens* is “a peremptory norm of general international law.”\(^{96}\) It is “a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”\(^{97}\)

Regardless of these possible interpretations, which can be used to address State responsibility, there is no consensus on whether human trafficking amounts to slavery and whether sex slavery should include other forms of sexual exploitation.

At a national level, the link between human trafficking and sexual exploitation or slavery is anticipated in provisions of the German Criminal Code.\(^{98}\) Section 232(1) of the Criminal Code provides as follows:

> Whosoever exploits another person’s predicament or helplessness arising from being in a foreign country in order to induce them to engage in or continue to engage in prostitution, to engage in exploitative sexual activity with or in the presence of the offender or a third person or to suffer sexual acts on their person with the offender or a third person shall be liable to imprisonment from six months to ten years.\(^{99}\)

It is clear from this provision that sex crimes materialize when one person takes advantage of another person’s helplessness, which is linked to being in a foreign country, and exploits the individual for personal gain or causes them to engage in prostitution or perform sexual acts on or in the presence of the perpetrator or a third person. Evidently, the German Criminal Code recognizes the link between inter-country human trafficking


\(^{95}\) Barcelona Traction, Light, & Power Co. Ltd. (Belgium v. Spain), 1970 I.C.J., Judgment ¶ 34 (Feb. 5).


\(^{97}\) Id.


\(^{99}\) Id.
and sexual exploitation or slavery. It acknowledges that being in a foreign land raises the possibility of being abused, especially when unemployed and without any means of support. It seeks to protect mainly foreigners who find themselves on German soil as a result of deception or coercion. By tying sexual exploitation and slavery to location, the German Criminal Code underlines that defenselessness increases with distance from communities in which a victim is habitually a resident.

III. IMPLEMENTATION OF INTERNATIONAL NORMS

In her analysis of trafficking, the Special Rapporteur on Trafficking has based her work on a number of components of anti-trafficking responses, namely the “5 Ps” (protection, prosecution, punishment, promoting international cooperation, and partnership), the “3 Rs” (redress, recovery, and reintegration), and the “3 Cs” (capacity, cooperation, and coordination). Furthermore, in order to guide States in operationalizing the right to an effective remedy, she also developed the “Draft Basic Principles on the Right to an Effective Remedy for Trafficked Persons.” These Draft Basic Principles are based on the existing international human rights law and standards and do not represent new norms of human rights. They are designed to bring clarity to the concept of the right to an effective remedy and to elaborate on specific factors to be taken into account when this right is applied to trafficked persons. In addition, the 2010 report of the Special Rapporteur on Violence Against Women elaborated how reparation programs for women who have been subjected to violence should aim at addressing both individual and structural aspects of violations and also aspire to provide transformative remedies.

100 See id.
101 See id.
104 See id. at 4–5.
105 Ngozi Ezeilo Report II, supra note 103, at ¶ 12.
In the current global political economy and in their responses to addressing trafficking, many governments have overwhelmingly adopted a “law and order” approach with accompanying strong anti-immigration policies, which are often at odds with the protection of human rights. The definition and criminalization of trafficking at the national level is often not consistent with the Palermo Protocol. In some States, for instance, the crime of trafficking in persons does not cover labor exploitation, such as slavery and forced labor, or the law focuses only on trafficking for sexual exploitation. Furthermore, despite the increase in anti-trafficking legislation around the world, evidence seems to indicate that the total number of prosecutions and convictions of traffickers is still low, owing to a variety of factors, including the limited understanding of the crime of trafficking in persons on the part of law enforcement authorities.

With respect to protection, recovery, and reintegration of trafficked persons, there has been some positive progress with legislation requiring trafficked persons to be provided with appropriate facilities and services, such as housing, legal assistance, medical, psychological, and material assistance, employment, and educational and training opportunities, as required by Article 6 of the Protocol. However, effective implementation remains a challenge. For example, many States still do not have appropriate shelters for trafficked persons, particularly for specific groups of trafficked persons, such as domestic victims of trafficking.

A number of States provide for a legal right of trafficked

A/HRC/14/22 (Apr. 23, 2010) (by Rashida Manjoo) [hereinafter Manjoo Report I].
109 See TRAFFICKING IN PERSONS REPORT June 2012 14, 23–24 (2012) (arguing that narrow definitions of trafficking exclude victims, including laborers; and stating that few countries criminalize the abuse of migrant workers).
110 See Makei, supra note 107 (discussing the rise in human trafficking, and stating that a number of countries seem to be failing to prosecute incidents of trafficking).
111 Palermo Protocol, supra note 72, at annex II, art. 6(3).
112 See TRAFFICKING IN PERSONS REPORT, supra note 109, at 29 (describing many shelters as situations similar to the trafficking experience).
persons to a recovery and reflection period in accordance with Article 7 of the Palermo Protocol. Some States make this period conditional upon the trafficked person’s willingness to cooperate with law enforcement authorities in investigating and prosecuting traffickers, or they simply fail to grant it in practice, due to the lack of knowledge on the part of the authorities.

As for prevention of trafficking, challenges remain in implementing the State Parties’ obligations under Article 9 of the Palermo Protocol to establish comprehensive policies, programs, and other measures. A number of States have implemented initiatives mainly in the form of information and mass media campaigns on risks of trafficking in persons, but insufficient attention is paid to addressing the root causes of trafficking, such as demand for cheap labor, sex tourism, widespread poverty, gender discrimination, conflicts, corruption, and restrictive immigration policies of favored countries for migrants. Prevention initiatives are not necessarily based on the recognition that trafficking in persons is caused by the lack of comprehensive protection of human rights, such as the freedom from discrimination, the right to work, the right to an adequate standard of living, and freedom of movement, amongst others.

The right to an effective remedy should include “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.” Rights of access to remedies, such as access to information, counseling and legal aid, and regularization of residence status, are critical pre-conditions to provide effective remedies, including compensation. The ability of trafficked persons to claim remedies hinges upon regularization of residence status in countries where remedies are sought, as it would be difficult for them to obtain remedies if they were at risk of expulsion or had already been expelled from the countries. Thus,

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113 Palermo Protocol, supra note 72, at annex II, art. 7(1).
114 See TRAFFICKING IN PERSONS REPORT, supra note 109, at 29 (stating that law enforcement interventions do not always recognize victims during their first encounter with victims).
115 See Prevention of Trafficking: A Consultation with the Special Rapporteur on Trafficking, Especially Women and Children, 6, (Jan. 18, 2010) (commenting on concern for “big budget prevention campaigns which raise awareness of trafficking related issues, but do little to address root causes”).
117 See id. at ¶ 19 (explaining that restitution should “restore the victim to the original situation before the gross violations”). See also TRAFFICKING IN PERSONS REPORT, supra note 109, at 30 (saying that victims need “medical care and counseling, legal advice, and social services,” in addition to shelter).
unless trafficked persons are guaranteed certain procedural rights, the right to seek remedies would be relegated to a mere theoretical possibility for many trafficked persons.\textsuperscript{118}

The pervasiveness of patriarchal attitudes in law enforcement and justice systems, coupled with a lack of resources and insufficient knowledge on existing applicable legislation, leads to inadequate responses to cases involving violations of women’s rights and the persisting social acceptance of such acts.\textsuperscript{119} “Low levels of prosecution of crimes against women reinforce the belief among victims that there is no systematic and guaranteed judicial response . . . and that there might be no punishment for their abusers.”\textsuperscript{120}

The Special Rapporteur on the Independence of Judges and Lawyers has highlighted how procedures and rules of evidence in the criminal justice system are often infiltrated by strong gender stereotypes, which can result in gender-biased behavior by court officials and discrimination against women by the criminal justice system, in general.\textsuperscript{121} In many countries, “provisions on rape and sexual assault in criminal codes are based on gender stereotypes and prejudices which result in the discriminatory treatment of victims, who are disproportionately female.”\textsuperscript{122} With regard to cases of sexual violence, the Special Rapporteur identifies some common gender-biased rules of evidence and procedure such as: 1) having to prove physical violence to show that there was no consent; 2) viewing women as likely to lie, therefore only accepting evidence if corroborated; 3) assuming that women are constantly sexually available; 4) inferring that women consent to sex even if forced, threatened, coerced, or if they remain silent; 5) taking into consideration previous sexual experience as a predisposition for women to be sexually available, or to

\textsuperscript{118} Ngozi Ezeilo Report II, \textit{supra} note 103, at ¶ 19.
automatically consent to sex; 6) perceiving women as bearing the responsibility for sexual attacks when they have been out late, in isolated places, or dressed in a particular manner; 7) thinking that it is impossible to rape a sex worker; and 8) viewing raped women as dishonored, shamed, and guilty, rather than as victims.\textsuperscript{123}

The Committee on the Elimination of All Forms of Discrimination Against Women recently examined an emblematic case of sexual violence, the \textit{Vertido v. Philippines} case, which concerned the sexual assault of a woman and the subsequent acquittal of the perpetrator based on gender-based myths and misconceptions about rape.\textsuperscript{124} The Committee found the Philippines in violation of the Convention on the Elimination of All Forms of Discrimination Against Women and noted the government’s “[o]bligation to take appropriate measures to modify or abolish not only existing laws and regulations, but also customs and practices that constitute discrimination against women.”\textsuperscript{125}

[T]he Committee stress[ed] that stereotyping affects women’s right to a fair and just trial and that the judiciary must take caution not to create inflexible standards of what women or girls should be or what they should have done when confronted with a situation of rape based merely on preconceived notions of what defines a rape victim or a victim of gender-based violence, in general.\textsuperscript{126}

At a national level, numerous mandate-holders have come across models or experiences aimed at providing the possibility to victims of seeking remedies for the human rights violations they have suffered. For example, in the United States, the Violence Against Women Act has created categories of visas meant to provide some form of immigration relief to victims of human trafficking, enabling them to live and work in the country as well as allowing entry for certain family members.\textsuperscript{127} “In order to be eligible for [such] visa[s], a victim must show cooperation with

\begin{footnotesize}
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\item \textsuperscript{123} Id. at ¶ 48.
\item \textsuperscript{125} Id. at ¶ 8.4.
\item \textsuperscript{126} Id.
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law enforcement requests for assistance in the investigation or prosecution.” In Italy, “[i]mmigration legislation provides for the possibility of issuing resident permits for reasons of social protection to women who are victims of trafficking and exploitation, upon declaration of their status and completion of the required assistance programmes.” Yet, many victims are prevented from benefiting from programs of assistance for fear of reprisal by traffickers. In the Netherlands, authorities established a set of human trafficking indicators. “If a possible trafficking case matches a certain number of indicators, the person . . . is considered to be a prima facie victim and she is given a period of up to three months to recover and reflect on whether to cooperate with the law enforcement authorities.” “If [the person] cooperates, she will receive a temporary resident permit for the duration of the investigation and prosecution” and she may also receive a permanent resident permit if certain requirements are met. “If the victim chooses not to cooperate, she will be deported unless she proves that it would be unsafe for her to return to her country of origin.”

IV. STATE RESPONSIBILITY TO ACT WITH DUE DILIGENCE

“Under international human rights law, States[] are compelled to prevent and respond to all acts of violence against women.” The 1993 Declaration on the Elimination of Violence Against Women urges States to “[e]xercise due diligence to prevent, investigate and, in accordance with national legislation, punish

128 Id. 129 Id. 130 Special Rapporteur on Violence Against Women, Its Causes and Consequences, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Addendum, Mission to Italy, ¶ 27, U.N. Doc. A/HRC/20/16/Add.2 (June 15, 2012) (by Rashida Manjoo). 131 Id. See also Mission to the Netherlands, supra note 33, at ¶ 75. 132 Mission to the Netherlands, supra note 33, at ¶ 75. 133 Id. 134 Id. 135 Id. at ¶ 76. 136 Special Rapporteur on Violence Against Women, Its Causes and Consequences, Statement by Ms. Rashida Manjoo, 2, 66th Session of the General Assembly (Oct. 10, 2011) (by Rashida Manjoo) [hereinafter Manjoo Statement]; Declaration on the Elimination of Violence Against Women, supra note 8, at art. 4.
acts of violence against women, whether those acts are perpetrated by the State or by private persons[.]

The Declaration also establishes that States should:

- Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and . . . to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms[.]

The enactment of adequate legislation on violence against women is the first preventative step. Shortcomings in legislation have particularly negative effects in contexts where women's subordinate status within intimate relationships, their economic dependence on male partners, and their fear of being abandoned or assaulted make them more vulnerable to trafficking.

The due diligence standard has increasingly become the parameter which measures the level of State compliance with its obligations to prevent, and respond to acts of violence against women. “It has become increasingly clear that there is a correlation between prevalence rates and effective and responsive accountability measures.”

The investigation, prosecution, protection, and redress measures, offered to women victims of violence, will have a direct effect on the prevalence rates of such violence. Therefore, it is crucial to promote offender-focused prosecutions, which take into consideration the histories of alleged perpetrators, and to offer victim-centered responses to trafficking of women, addressing the immediate, medium, and long terms needs of victims. Such responses must be sensitive to the safety needs and cultural considerations with respect to victims’ positions within their families, and their wider communities. The ultimate objective of States’ efforts when investigating and punishing acts of violence against women, and when protecting and offering redress to victims, should be the prevention of re-victimization and future acts of violence, by

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137 Declaration on the Elimination of Violence Against Women, supra note 8, at art. 4(c).
138 Id. at art. 4(d).
139 See BREGJE BLOKHUIS, VIOLATION OF WOMEN’S RIGHTS 10, 13, 54 (2008).
141 Manjoo Statement, supra note 136, at 3.
addressing structural discrimination and ensuring the empowerment of women. Comprehensive remedial schemes for women victims of trafficking should consider measures of restitution and compensation, rehabilitation and reintegration, substantive recognition of the harms suffered, as well as guarantees of non-repetition. 142

Many States have exercised due diligence in their measures to prevent and combat trafficking as a form of violence against women. 143 As a fundamental starting point, States are the primary duty-bearers and thus have an obligation under international human rights law to protect against human rights abuses within their territory and/or jurisdiction. 144 “The [international] obligations of States to prevent and combat trafficking in persons... translate into obligations at the national level to adopt and enforce appropriate legislative or other measures” which may include specific anti-trafficking legislation, and also “other related areas of national laws, such as labour and immigration laws.” 145 The importance of integrated training that promotes a rights-based approach and provides technical skills for criminal justice agencies and institutions, who have the responsibility to investigate, prosecute, and adjudicate trafficking crimes with due diligence, has also been emphasized. 146

Criminalization of trafficking in persons is an essential aspect of the fight against trafficking in persons and the international instruments impose on States an obligation to proscribe the conduct of trafficking. 147 While many States have made progress in developing a criminal justice response, the human rights of trafficked persons are often not the primary consideration in the

143 See General Recommendation No. 19, supra note 63, at ¶ 9.
147 Id. at ¶ 16.
pursuit of effective prosecution and punishment.\textsuperscript{148} Criminalization \textit{per se} is not an end in itself.\textsuperscript{149} It must be accompanied by the effective enforcement of the law, and the imposition of appropriate punishments for trafficking, and related offences. In this regard, low prosecution, and conviction rates around the world confirm that even those States with advanced criminal justice systems, and sophisticated anti-trafficking strategies, need to improve their interventions.\textsuperscript{150}

Correct identification of trafficked persons remains complex, and in practice, trafficked persons are often arrested, detained, and charged as smuggled or undocumented workers.\textsuperscript{151} Timely and accurate identification of victims is crucial for effective criminal justice responses to trafficking, as it affects the ability of law enforcement officials to prosecute traffickers and allows for the provision of necessary support services to trafficked persons. “\texttextsuperscript{[C]}riminalization and/or detention of victims of trafficking is incompatible with a rights-based approach to trafficking because it inevitably compounds the harm already experienced by trafficked persons and denies them the rights to which they are entitled.”\textsuperscript{152} In order to facilitate quick and accurate identification of trafficked persons, numerous States have conducted “specialized training sessions to enhance the capacity of front-line officers, especially the police, immigration, border guards and labour inspectors.”\textsuperscript{153} “Some Governments have . . . develop[ed] national referral mechanisms, standard operating procedures . . . and/or other tool kits to build capacity and raise awareness to facilitate rapid and accurate identification of victims.”\textsuperscript{154}

Ideally, the provision of protection and support to victims of trafficking would play a critical role in promoting the effective investigation and prosecution of traffickers. Unfortunately, too many States still link the provision of assistance and protection, to cooperation with national criminal justice agencies. Practices include victims of trafficking being mandatorily detained in shelters, which, in some circumstances, violates the right to freedom of movement, and the prohibitions on unlawful

\textsuperscript{148} See id. at ¶ 19.
\textsuperscript{149} Id. at ¶ 21–22.
\textsuperscript{150} Id. at ¶ 87.
\textsuperscript{151} Id. at ¶ 24.
\textsuperscript{152} Ngozi Ezeilo Report IV, supra note 146, at ¶ 25.
\textsuperscript{153} Id. at ¶ 34–35.
\textsuperscript{154} Id. at ¶ 35.
deprivation of liberty, and arbitrary detention.\footnote{Id. at ¶ 43.}

Creating opportunities for safe migration as a way of preventing trafficking in persons has often been overtaken by concerns for the protection of national sovereignty, and border security. Article 11 of the Palermo Protocol clearly stipulates that States shall strengthen border controls to prevent trafficking in persons “without prejudice to international commitments in relation to the free movement of people . . . .”\footnote{Palermo Protocol, supra note 72, at art. II(1).} Trafficked persons are subject to arrest and detention in some States on the basis that they are “illegal migrants” in violation of immigration laws, or in violation of anti-prostitution laws, in the case of trafficking for the purpose of commercial sexual exploitation.\footnote{Lin Chew, Addressing Trafficking of Persons in the Human Rights Framework, WOMEN’S FUNDING NETWORK, http://www.womensfundingnetwork.org/resource/past-articles/addressing-trafficking-of-persons-in-the-human-rights-framework (last visited Oct. 29, 2013).}

The promotion of cooperation and partnership—which are cross-cutting elements in all aspects of the efforts to combat trafficking in persons—is also crucial. Without international cooperation, and collaboration, effective investigation and prosecution of the crime of human trafficking may be almost impossible. In this regard, it is critical to develop cooperation mechanisms between States, to share and exchange information and to conduct joint investigations by law enforcement authorities.

Restitution, a form of remedy aimed at “restoring the situation that existed prior to the violation . . . warrant[s] a cautious approach . . . as simply returning [trafficked women] to the pre-existing situation may place . . . her at the risk of further human rights violations and being re-trafficked.”\footnote{Ngozi Ezeilo Report II, supra note 103, at ¶¶ 20–21.} Where trafficked persons are repatriated, restitution may thus imply that States have an obligation to undertake broader measures to address root causes of trafficking, and to provide the necessary support for the reintegration of trafficked persons.\footnote{Id. at ¶ 21.}

Recovery is a crucial form of remedy for trafficked persons not only in itself, but also as a means to seek other forms of remedy, such as compensation.\footnote{Special Rapporteur on Trafficking in Persons, Especially Women and Children, Trafficking in Persons, Especially Women and Children, transmitted}
the non-discriminatory and unconditional provision of services to assist the full recovery of trafficked persons. Recovery services may only be available to certain categories of trafficked persons to the exclusion of others, or upon cooperation with law enforcement authorities.\footnote{by Note of the Secretary-General, ¶ 18, U.N. Doc. A/66/283 (Aug. 9, 2011) (by Joy Ngozi Ezeilo) [hereinafter Ngozi Ezeilo Report V].}

Compensation, while being the most widely recognized form of remedy, is often not readily accessible to trafficked persons, whether in criminal, civil, or labor proceedings.\footnote{See Special Rapporteur on Trafficking in Persons, Especially Women and Children, Report by the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Addendum, Communications to and from Governments, Human Rights Council, ¶ 5, U.N. Doc. A/HRC/17/35/Add.1 (May 17, 2011) (by Joy Ngozi Ezeilo) [hereinafter Communications to and from Governments].} In these proceedings, the possibility of obtaining compensation hinges upon identification, arrest, trial, and conviction of traffickers, which remains difficult.\footnote{Id. at ¶ 21.} Civil proceedings tend to be time-consuming, expensive, and complicated, which may effectively preclude trafficked persons from seeking this course of action.\footnote{Id. at ¶ 26. See also Ngozi Ezeilo Report IV, supra note 146, at ¶ 81.} The possibility for trafficked persons to obtain compensation through labor proceedings may be restricted by a number of eligibility criteria, such as the type of their work and their immigration status.\footnote{Ngozi Ezeilo Report V, supra note 160, at ¶ 22.} Legal assistance is also essential in order to claim compensation, as judicial and administrative proceedings are often complex in many jurisdictions and trafficked persons may not be familiar with the legal system of the country concerned.\footnote{See also Ngozi Ezeilo Report V, supra note 160, at ¶¶ 22, 25. See also Ngozi Ezeilo} Asset recovery plays an important role in effective criminal justice responses to trafficking, not only because it undermines the financial gain of traffickers, but also linking asset seizure to victim support is in line with a rights-based approach to human trafficking. Laws which explicitly provide that restitution and compensation be made to victims of trafficking out of the proceeds of assets seizure do exist in some countries.\footnote{Ngozi Ezeilo Report V, supra note 160, at ¶¶ 22, 25. See also Ngozi Ezeilo} In some instances, such proceeds have reportedly failed to be distributed to victims.\footnote{Id. at ¶ 19.}
The role of other influential stakeholders, such as businesses, consumers, and the media, in the fight against human trafficking in supply chains should also be stressed when discussing anti-trafficking strategies. Businesses are a significant part of the human trafficking chain, as they could be directly linked to it through the recruitment, transport, or receipt of workers for purposes of exploitation. Businesses may be linked to human trafficking at various stages of production of their goods or delivery of their services through the conduct of their suppliers, subcontractors, or business partners, given the complexity of supply chains in today’s global economy. Ethical consumerism and other consumer-targeted initiatives, such as product certification and labeling, are powerful ways to influence corporate behavior.

CONCLUSION

Throughout the world, violence against women is pervasive, widespread, and unacceptable. Rooted in multiple and intersecting forms of discrimination and inequalities, and strongly linked to the social and economic situation of women, violence against women constitutes a continuum of exploitation and abuse. It occurs both in the public and the private spheres, including in the family, the community, in State institutions, and at the transnational level. “Whether it occurs in times of conflict, post conflict[, transitions, displacement,] or so called peace, the various forms and manifestations of violence against women are simultaneously causes and consequences of discrimination, inequality and oppression.”

Violence occurs at the intersections of various elements, which characterize women’s realities. Trafficking of women is yet another illustration of how discriminatory practices, prior experiences of violence and exploitation, economic and social

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Report IV, supra note 146, at ¶ 83.


170 Id. at ¶ 11.

171 See generally id. (discussing the trafficking of persons in supply chains).

172 See Elisabeth Rehn & Ellen Johnson Sirleaf, Women, War and Peace vii (Gloria Jacobs ed., 2002).


174 Id.
conditions, ethnicity, and other elements interplay and contribute
to fuelling trafficking.\textsuperscript{175} As such, States' responses must reflect a
holistic framework and have regard to due diligence in preventing
trafficking, punishing and prosecuting perpetrators, and assisting
and providing remedies to victims.

As stated previously, accurate identification of trafficked
persons is a pre-requisite for trafficked persons to be able to
exercise the right to an effective remedy, as it is almost
impossible to do so if they are misidentified as irregular migrants
or criminal offenders. They must also be provided with a
reflection and recovery period as well as support and assistance
necessary for their recovery on a non-conditional basis, so that
they can make an informed decision as to what course of action
they would like to pursue. If trafficked persons wish to seek
compensation for the harms suffered, it is necessary that they are
equipped with information about their rights and avenues
available to exercise their rights, legal assistance, interpretation,
and other necessary services, including regular residence status.
“Trafficked persons must be recognized as holders of rights from
the moment that they are identified as trafficked and States must
implement responses underpinned by all . . . elements necessary
for [such] persons to [exercise] the right to an effective remedy.”\textsuperscript{176}

Individual instances of violence against women generally feed
into pre-existing patterns of crosscutting structural subordination
and systemic marginalization, and as such measures of redress
for victims need to link individual remedies with structural
transformation.\textsuperscript{177} This means that remedies provided to victims
of violence should aspire, to the extent possible, to subvert,
instead of reinforce, pre-existing patterns of structural
subordination, gender hierarchies, systemic marginalization, and
structural inequalities that may be the root cause of the violence
that women experience. Eliminating discriminatory practices in
all spheres of women’s lives, addressing the root causes of
trafficking of women, addressing women’s empowerment, and
most importantly transforming societies so that equality, non-
discrimination, dignity, and accountability are the rule rather
than the exception, has to be part of a more intensive response.
This is a global challenge that needs urgent attention.

\textsuperscript{175} See Manjoo Report II, \textit{supra} note 119, at ¶ 35.
\textsuperscript{176} Ngozi Ezeilo Report V, \textit{supra} note 160, at ¶ 27.
\textsuperscript{177} Manjoo Report I, \textit{supra} note 106, at ¶ 24.