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Quaker United Nations Office

Foundations for Implementation

A reference tool containing guidance drawn from the UN's Special Procedures and Treaty Bodies to support States in human rights based implementation of the Global Compact for Safe, Orderly and Regular Migration.

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

What This Reference Tool Contains

This compilation draws on recommendations from:

- Special Procedure thematic reports that relate specifically to migrants
- Treaty Body General Comments and General Recommendations that relate specifically to migrants

This practical tool emphasises recommendations for individual State action rather than observations, and includes those recommendations that assist in turning the objectives into practical actions rather than echoing the principles and standards agreed in the Compact.

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Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

Guidance from Special Procedures

Source	Guidance
Special Rapporteur on the human rights of migrants (2018), A/HRC/38/41 (para.93(d))	In order to ensure reintegration that is human rights-centred and effective, States and other stakeholders should: Ensure that victims of trafficking are properly compensated for the harm suffered and are protected from re-trafficking;
SR migrants (2014), A/HRC/26/35 (para.89)	Undertake all the necessary measures to combat trafficking for labour exploitation and all forms of forced labour by migrants, and provide adequate support and assistance to the victims. Provide victims of trafficking with a residence permit that allows them to work and of a sufficient duration to allow them to rebuild their lives and consider their options
SR migrants (2012), A/HRC/20/24 (para.72(i))	Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for illegal entry or residence in the country or for the activities they are involved in as a consequence of their situation as trafficked persons. In this respect, the Special Rapporteur invites States that have not yet done so to consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
SR migrants (2010), A/65/222 (para.107(a))	Take all necessary steps to prevent multiple discrimination and re-victimization, ensuring that effective structures and mechanisms are put in place to assist victims to reintegrate into society, including by providing them with psychological, health and social assistance;
SR migrants (2010), A/65/222 (para.107(b))	Incorporate into national policies, plans and programmes, and effectively implement, the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1);
Special Rapporteur on trafficking in persons, especially women and children (2018), A/73/171 (para.73(c))	In relation to the prevention of trafficking in persons: Give due consideration to early warning signs, including indicators of vulnerabilities to trafficking, especially in refugee, internally displaced persons camps and host communities, and in the proximity of military barracks and peacekeeping forces;
SR trafficking (2018), A/73/171 (para.73(h))	In relation to the prevention of trafficking in persons: Organize regular training for relevant personnel to identify, document and denounce situations in which there are risks of trafficking within and outside refugee camps and in the proximity of military or peacekeeping bases;
SR trafficking (2017), A/HRC/35/37 (para.79)	Multi-stakeholder initiatives should provide specific training to auditors and assurance providers on trafficking in persons to improve their skills in risk detection and evaluation of risk indicators; the training should also cover how to interview workers and should raise awareness of worker vulnerabilities, including those related to gender or migration status

<p>SR trafficking (2016), A/71/303 (para.69(j))</p>	<p>All States, particularly those hosting potential victims of trafficking among persons fleeing conflict, should: Not detain, prosecute or punish victims of trafficking for violations of immigration laws or for unlawful activities they were involved in as a direct consequence of their situation as trafficked persons, including violations and offences linked with prostitution, petty crime and irregular entry/stay in the host country;</p>
<p>SR trafficking (2016), A/71/303 (para.71(e))</p>	<p>States hosting, among persons fleeing conflict, children who may have been or are at risk of being victims of trafficking in persons should: Ensure that trafficked children and any other trafficked persons are not detained, prosecuted or punished for violations of immigration laws or for unlawful activities they are involved in as a direct consequence of their situation as trafficked persons</p>
<p>SR trafficking (2015), A/70/260 (para.45)</p>	<p>Due diligence requires States to take a comprehensive, integrated and holistic approach to ensuring the human rights of trafficked persons and persons at risk of being trafficked. Meaningful and substantive human rights due diligence provides a necessary framework to ensure policy coherence between anti-trafficking policy and related policy areas such as immigration and labour market policies</p>
<p>SR trafficking (2015), A/70/260 (para.48)</p>	<p>Due diligence to prevent trafficking requires action to address the wider, more systemic processes or root causes that contribute to trafficking in persons, such as inequality, restrictive immigration policies, and unfair labour conditions, particularly for migrant workers. Due diligence requires that in developing, implementing and assessing prevention approaches, initiatives be based on accurate data and targeted to those most at risk of trafficking in persons</p>
<p>SR trafficking (2013), A/HRC/23/48 (para.85(c))</p>	<p>Discouraging demand routinely requires measures to stop discrimination, notably discriminatory practices which contribute to the exploitation of persons. These include discrimination based on gender, ethnicity, national origin and other criteria, such as discrimination against migrant workers in employment practices. States should eliminate acts or practices of discrimination on such grounds and should amend laws and policies that institutionalize discrimination and thereby also shape demand, particularly ones concerned with employment or migration, just as they must challenge discriminatory social attitudes, practices and beliefs, which also shape demand;</p>
<p>SR trafficking (2013), A/HRC/23/48 (para.85(g))</p>	<p>It is necessary to ensure that anti-trafficking measures do not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum seekers. States should actively monitor the impact and possible side effects of measures to discourage demand and take appropriate action to address any unintended side effects which restrict the exercise of human rights;</p>
<p>SR trafficking (2012), A/HRC/20/18 (para.89)</p>	<p>Laws and policies that do not contain adequate safeguards to prevent the prosecution of trafficking victims for status-related offences must be revised, in particular by taking steps to ensure that they are not prosecuted for offences related to their status as trafficked persons, including sex crimes, begging, working or immigration violations. In addition, it is important that States provide post-conviction remedies, such as the possibility to quash judgements for status-related offences</p>

<p>SR trafficking (2011), A/66/283 (para.33)</p>	<p>As a very first step in ensuring that trafficked persons have the opportunity to seek remedies as victims of human rights violations, States should ensure that relevant authorities and officials, such as police, border guards and immigration officials, are adequately trained in the identification of trafficked persons to allow rapid and accurate identification of trafficked persons</p>
<p>SR trafficking (2011), A/HRC/17/35 (para.64)</p>	<p>States should ensure that relevant authorities and officials, such as police, border guards, and immigration officials, are adequately trained in the identification of trafficked persons to allow rapid and accurate identification of trafficked persons. Proper identification of trafficked persons is the first step in ensuring that trafficked persons have the opportunity to seek remedies as victims of human rights violations</p>
<p>SR trafficking (2011), A/HRC/17/35 (para.76)</p>	<p>States should also provide trafficked persons with temporary or permanent residence permits on social and humanitarian grounds, where a safe return to the country of origin is not guaranteed or a return would not otherwise be in the best interests of the trafficked person for reasons related to his or her personal circumstances, such as the loss of citizenship or cultural and social identity in the country of origin. States should also independently consider trafficked persons' claims for asylum, giving due consideration to any risks of reprisals and retaliation by traffickers which could constitute persecution within the meaning of the 1951 Convention relating to the Status of Refugees</p>
<p>SR trafficking (2010), A/65/288 (para.67)</p>	<p>Demand for exploitative labour and services, particularly demand by employers and third parties involved in trafficking, should be addressed as a root cause of trafficking. To that end, States should develop or strengthen immigration policies informed by the evidence-based recognition of the demand for migrant labour, including low- and semi-skilled labour</p>
<p>SR trafficking (2010), A/65/288 (para.75)</p>	<p>States should recognize the limited effects of awareness-raising in preventing trafficking, and should combine awareness-raising activities with measures to address the root causes of trafficking and provide prospective migrants with alternatives</p>
<p>Working Group on Enforced or Involuntary Disappearances (2017), A/HRC/36/39/Add.2 (para.88(c))</p>	<p>Take all possible measures to sanction criminal organizations which abuse or exploit migrants, notably trafficking networks, and adequately investigate any allegation of involvement, collusion or acquiescence of State authorities in these criminal acts, which may end in the disappearance of migrants;</p>
<p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2009), A/64/211 (para.53(n))</p>	<p>To guarantee the right to protection from all forms of exploitation, sale and trafficking of persons by separating counter-terrorism measures from anti-trafficking initiatives to ensure that trafficked persons are neither criminalized nor stigmatized, and their human rights are ensured;</p>

<p>Special Rapporteur on violence against women, its causes and consequences (2001), A/CONF.189/PC.3/5 (para.206)</p>	<p>Design and implement policies and measures to criminalize trafficking, punish traffickers and empower trafficked persons to regain control over their lives, including through special protection measures for women who wish to escape from traffickers (such as sheltered housing and special residence permits) and social inclusion programmes providing access to training and employment opportunities; Design anti-trafficking campaigns in such a way as to avoid negative stereotyping of marginalized women and the dissemination of sexist/racist prejudice;...Encourage the business sector, in particular the tourist industry and Internet providers, to develop codes of conduct with a view to protecting trafficked persons, especially those in prostitution, against gender-based and racial discrimination, and to promoting their rights, dignity and security; States should encourage the establishment of independent civil society committees to monitor compliance with such codes of conduct; Involve civil society organizations in awareness-raising and in the monitoring, evaluation and implementation of governmental policies and programmes</p>
<p>SR violence against women (2000), E/CN.4/2000/68 (para.113)</p>	<p>Governmental measures and international efforts to address trafficking must focus on the human rights abuses and labour rights abuses of the women involved, rather than treating trafficking victims as criminals or as illegal migrants</p>
<p>SR violence against women (2000), E/CN.4/2000/68 (para.122(a))</p>	<p>In consultation with relevant non-governmental organizations, relevant government bodies must: Develop curricula and conduct training for relevant government authorities, including officials of immigration and consular affairs offices, customs services, border guard and migration services, and representatives of the Ministry of Foreign Affairs, regarding the prevalence and risks of being trafficked, and the rights of victims. The training of such officials must not result in the creation of “profiles” which prevent women from receiving visas to go abroad;</p>
<p>SR violence against women (1997), E/CN.4/1997/47 (para.175)</p>	<p>States should develop institutional mechanisms to combat complicity by police and immigration officers in the process of trafficking and forced prostitution of women</p>
<p>SR violence against women (1997), E/CN.4/1997/47 (para.170)</p>	<p>Procedures should ensure that traffickers cannot act with impunity because of the immediate deportation of trafficked victims</p>
<p>Special Rapporteur on the sale and sexual exploitation of children (1999), E/CN.4/1999/71 (para.152(v))</p>	<p>Governments must identify and remove corrupt public officials acting as accomplices of traffickers and traders, and resist the pressure to attempt to address trafficking simply by limiting migration, which exacerbates the problem, especially for children</p>
<p>SR sale of children (1996), A/51/456 (para.88(c))</p>	<p>Quick and accurate exchange of information between countries should be developed with respect to the law enforcement agencies and the judiciary in order to ensure the thorough investigation, prosecution and conviction of perpetrators and the protection of the child victims. The national police should likewise work closely with INTERPOL and immigration authorities to curb trafficking and related activities;</p>

Guidance from Treaty Bodies

Source	Guidance
<p>CMW / CRC Joint general comment No.4 / No.23: on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017), CMW/C/GC/4-CRC/C/GC/23 (para.II.F.43)</p>	<p>For migrant children for whom there are indications of trafficking, sale or other forms of sexual exploitation or who may be at risk of such acts or of child marriage, States should adopt the following measures: • Establish early identification measures to detect victims of sale, trafficking and abuse, as well as referral mechanisms, and in this regard carry out mandatory training for social workers, border police, lawyers, medical professionals and all other staff who come into contact with children • Where different migration statuses are available, the most protective status (i.e., asylum or residence on humanitarian grounds) should be applied and granting such status should be determined on a case-by-case basis in accordance with the best interests of the child • Ensure that the granting of residence status or assistance to migrant child victims of sale, trafficking or other forms of sexual exploitation is not made conditional on the initiation of criminal proceedings or their cooperation with law enforcement authorities</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.IV.d.24)</p>	<p>The Committee is of the view that practical measures should be taken at all levels to protect children from the risks [of trafficking]. Such measures could include: priority procedures for child victims of trafficking, the prompt appointment of guardians, the provision of information to children about the risks they may encounter, and establishment of measures to provide follow-up to children particularly at risk. These measures should be regularly evaluated to ensure their effectiveness</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.g.52)</p>	<p>In accordance with article 35 of the Convention, States parties should take appropriate measures to prevent such trafficking. Necessary measures include identifying unaccompanied and separated children; regularly inquiring as to their whereabouts; and conducting information campaigns that are age-appropriate, gender-sensitive and in a language and medium that is understandable to the child. Adequate legislation should also be passed and effective mechanisms of enforcement be established with respect to labour regulations and border crossing</p>
<p>CRC General comment No.6: treatment of unaccompanied and separated children outside their country of origin (2005), CRC/GC/2005/6 (para.V.g.53)</p>	<p>Children who are at risk of being re-trafficked should not be returned to their country of origin unless it is in their best interests and appropriate measures for their protection have been taken. States should consider complementary forms of protection for trafficked children when return is not in their best interests</p>

10



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This reference tool is part of a larger document that contains guidance for all 23 objectives of the Global Compact for Safe, Orderly and Regular Migration. It is available online at: quno.org/resource/2018/11/foundations-implementation

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