Trafficking in Persons and Exploitation of Migrants: Ensuring Protection of Human Rights

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PRESENTATION INCLUDES

1. Problems stemming from an emphasis on punishing traffickers
2. Outline of a human rights approach
3. Policy implications
INTERNATIONAL LAW AFFECTING MIGRANTS

- Regulatory
- Punitive / criminalising
- Protecting human rights
PROBLEMS WITH A PUNITIVE APPROACH (EMPHASIS ON PUNISHING TRAFFICKERS)

• Detention (and deportation) of people who have been trafficked - *victims of crime*
• Conditionality of assistance
• Difficult to distinguish trafficked migrants from others
• Discrimination against women and girls
CONFUSION IN DISTINGUISHING WHO HAS BEEN TRAFFICKED

- Children labelled ‘trafficked’ inappropriately
- Intermediaries who help children labelled ‘traffickers’ inappropriately
- ILO: “...the lessons of experience point to a very thin dividing line between coerced and non-coerced exploitation.”
A HUMAN RIGHTS APPROACH

- Place people who experience abuse centre stage: *they have rights!*
- Assess strategies on the basis of their impact on these individuals and their rights
- Identify ‘duty bearers’
- Analyse who is accountable for protecting human rights
KEY INTERNATIONAL STANDARDS

• WHO Recommendations (2003)
PRINCIPLES

• (1) “The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”

• “..measures should not adversely affect the human rights and dignity of persons...in particular...those who have been trafficked, migrants, internally displaced persons, refugees and asylum-seekers”
POLICY IMPLICATIONS

1. Get procedures and protocols in place for IDENTIFICATION

2. Evidence-based approach = don’t base policy on theory, but on facts

3. Monitor impact of anti-trafficking policies and programmes; and amend them when necessary
ASSESSING IMPACT

• Advantages of an independent monitor or Rapporteur
• Talking to adults and children who have been trafficked reveals gaps in protection and other unexpected effects of policies – some undesirable which require counter-action
MOVING TO A MORE COMPREHENSIVE APPROACH

1. Give attention to any abuse of migrants, not just ‘trafficking’

2. Address the conflict in priorities between immigration policies (that seek to exclude irregular migrants) and anti-trafficking policies (which seek to stop violations of human rights)
A MORE COMPREHENSIVE APPROACH...

3. Address exorbitant fees paid by migrants and ‘debt bondage’

4. Amend policies which make assistance conditional

5. Repeal legislation which allows trafficked persons to be locked up
THANK YOU FOR YOUR ATTENTION!

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