The nexus between human trafficking and asylum.
Can women trafficked for the purposes of sexual exploitation successfully claim asylum?

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Abstract

Can women trafficked for the purposes of sexual exploitation successfully claim asylum in accordance with the United Nations 1951 Convention relating to the Status of Refugees (the Refugee Convention)? This question surprisingly lacks definitive answers, in law and in practice.

There is no doubt that women trafficked for the purposes of sexual exploitation (VHT) require assistance, support and protection - but should this be provided through the asylum system or the trafficking system? This paper explores the nexus between the two systems and examines how they should be linked to ensure the most appropriate and effective protection for human trafficking victims with international protection needs.

The Refugee Convention protects people with a well-founded fear of being persecuted on account of their race, religion, nationality, political opinion or membership of a particular social group. VHT will usually claim asylum on this last ground. But some asylum authorities do not accept that women or VHT can constitute a particular social group and reject their asylum claims. How can the diverging approaches be reconciled to ensure these women are protected?

A critical issue is the lack of consistent definition of ‘particular social group’ for VHT. Four solutions are discussed in this paper, any of which could lead to consistent practices if agreement is reached amongst asylum-authorities. However in the absence of such agreement, VHT may continue to be deprived of reliable processes to protect them from future persecution. This paper proposes these solutions to bring convergence to the different applications of the Refugee Convention and ensure a fairer and more consistent application of the Refugee Convention to women who have been trafficked for the purposes of sexual exploitation.
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**Acronyms**

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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CGRS</td>
<td>Center for Gender and Refugee Studies (California)</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<tr>
<td>EWCA</td>
<td>England and Wales Court of Appeal</td>
</tr>
<tr>
<td>FMCA</td>
<td>Federal Magistrate’s Court of Australia</td>
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<tr>
<td>GRETA</td>
<td>Group of Experts on Action against Trafficking in Human Beings</td>
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<tr>
<td>HCA</td>
<td>High Court of Australia</td>
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<tr>
<td>LRA</td>
<td>Lord’s Resistance Army</td>
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<tr>
<td>OSCE</td>
<td>Organisation for Security and Cooperation in Europe</td>
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<tr>
<td>PSG</td>
<td>Particular Social Group</td>
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<tr>
<td>RMJ</td>
<td>Refugee and Migrant Justice</td>
</tr>
<tr>
<td>RRTA</td>
<td>Refugee Review Tribunal of Australia</td>
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<tr>
<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>UKIAT</td>
<td>United Kingdom Immigration Appeal Tribunal</td>
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<tr>
<td>UKUT</td>
<td>United Kingdom Upper Tribunal</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<tr>
<td>US</td>
<td>United States</td>
</tr>
<tr>
<td>VCLT</td>
<td>Vienna Convention on the Law of Treaties</td>
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<tr>
<td>VHT</td>
<td>Victim/s of Human Trafficking (specifically, women trafficked for the purpose of sexual exploitation)</td>
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