



European Master's Degree in Human Rights and Democratisation

*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

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

Table of Contents

Introduction	1
Methodology	2
<i>Choice of Jurisdictions</i>	2
<i>Value of main approach and sources</i>	3
1. Key definitional concepts and the nexus between human trafficking and asylum	5
1.1. VHT trafficked for the purposes of sexual exploitation.....	6
1.2. Defining a refugee	6
1.3. Defining human trafficking	8
1.3.1. Defining VHT	8
1.3.2. The principle of non-punishment for VHT and asylum-seekers	10
1.3.3. Human trafficking is not human smuggling	12
1.3.4. Who are these victims?	13
1.3.5. Human trafficking is a form of gender-based violence	15
1.4. The nexus between human trafficking and refugee systems	16
1.4.1. Linking the systems to ensure VHT’s protection needs are assessed.....	17
1.4.2. International push for the nexus to be established.....	18
1.4.3. Prerequisite to identification: the existence of the two systems	19
1.4.4. The Norwegian example: linking the two systems.....	20
1.4.5. Advantage for VHT in accessing the asylum system	21
1.5. Conclusion.....	25
2. The applicability of the Refugee Convention to VHT	26
2.1. Persecution	28
2.1.1. Types of persecution.....	31
2.1.1.1. Physical and mental suffering.....	31
2.1.1.2. Re-trafficking and reprisals.....	33
2.1.1.3. Ostracism and discrimination.....	35
2.1.1.4. Other forms of persecution: ‘continued persecution’	38
2.1.2. Fear of persecution must be well founded.....	40
2.1.3. Persecution distinguished from criminal acts.....	43

2.2.	Nexus – ‘for reasons of’	46
2.3.	Unavailability of State protection	50
2.3.1.	Test to determine a state’s ability and willingness to protect.....	50
2.3.2.	State as persecutor	52
2.3.3.	Non-state actor as persecutor.....	53
2.3.4.	VHT-specific considerations in determining availability of state protection.....	54
2.4	Conclusion.....	56
3.	The most relevant ground under Article 1A(2): Particular Social Group	59
3.1.	Article 1A(2)’s application to VHT	59
3.2.	Defining ‘Particular Social Group’	60
3.3.	Gender based asylum claims: Particular Social Group	62
3.3.1	Rationale behind the refusals to accept these social groups	65
3.3.2	Fear of misapplying the Refugee Convention and the ‘living instrument’ debate	66
3.3.2.1	The changing protection needs of women	69
3.3.3	Solution one: ‘women’ as a particular social group	70
3.3.3.1	Rejecting ‘women’ as a particular social group.....	72
3.3.3.2	Fear of flooding the asylum system with women asylum-seekers?.....	74
3.3.4	Solution two: VHT as a particular social group: define the group narrowly.....	75
3.3.5	Solution three: VHT: a particular social group defined by the past trafficking experience.....	78
3.3.6	Solution four: domestic legislation that recognises VHT as a particular social group.....	82
3.4	Conclusion.....	82
4.	Other grounds under Article 1A(2): Race, Religion, Nationality, Political Opinion.....	84
4.1	Double-pronged potential for persecution.....	84
4.2	Race or nationality.....	84
4.3	Religion	86
4.4	Political opinion	88
4.5	Conclusion.....	89
5.	Practical Obstacles in accessing the asylum system.....	91
5.1	Lack of knowledge within the trafficking and asylum systems of VHT-specific issues, including non-penalisation	92
5.2	Lack of training of authorities	94

5.3	Access to information.....	96
5.4	Importance of legal advice	97
5.5	Conclusion.....	100
6.	Conclusion	102
7.	Bibliography	103
i.	Books.....	103
ii.	Articles	103
iii.	Reports and research papers.....	105
iv.	United Nations Documents.....	108
v.	Internet resources.....	110
vi.	Conventions and other instruments	111
vii.	Case law	113