ALL RESOLUTIONS, LITTLE RESOLVE: FULLFILLING THE PROMISE TO END TRAFFICKING OF DISPLACED PERSONS

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ABSTRACT

The international community is failing to meet its moral and legal obligations to some of the world’s most vulnerable people in combating human trafficking. The beginning of this paper examines the issue of trafficking, how it affects women and children displaced by conflict and the need for prevention efforts to be targeted to meet their needs, particularly ensuring security and supporting livelihoods.

The paper then provides a theoretical framework that will offer a lens through which to view the obligations of the international community before moving on to an analysis of the commitments the international community has made to protect displaced persons from trafficking, particularly women and children, and how they are falling short.

The focus then turns to the issue of human security in a conflict environment and its particular importance in trafficking prevention, drawing heavily on the conflicts in Sudan for examples. It assesses the need to prevent
conflict from occurring where possible, before discussing the need to increase protection for displaced persons in camps.

Canada provides a case study to provide insights into how Western countries could improve their approach in order to fulfill their obligations on prevention, protection and prosecution.

The paper concludes that the international community has failed to meet its pledges to the world’s displaced people and efforts need to be scaled up to tackle the issue.
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CHAPTER 1: INTRODUCTION TO TRAFFICKING, CONFLICT AND THE RIGHTS OF WOMEN

There are many benefits that come with the increasing interconnectedness of the global community, but the phenomenon also fuels some challenges that need to be addressed. One such challenge is the proliferation of human trafficking—particularly of women and children—in times of conflict.

The United Nations defines human trafficking as follows:

. . .the 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.¹

The international community is failing to meet its moral and legal obligations to some of the world’s most vulnerable people by failing to effectively combat human trafficking. Chapter 1 of this paper examines the issue of

trafficking, how it affects women and children displaced by conflict and the need for prevention efforts to be targeted to meet their needs. Chapter 2 presents a theoretical framework that will offer a lens through which to view the obligations of the international community. Chapter 3 looks at the commitments the international community has made to protect displaced persons from trafficking, particularly women and children, and how they are falling short. Chapter 4 examines the issue of human security in a conflict environment and its particular importance in trafficking prevention. Chapter 5 then hones in on Canada as a case study to provide insights into how Western governments can improve their approach in order to fulfill their obligations. In chapter 6 the paper concludes that the international community has failed to meet its pledges to the world’s displaced persons and efforts need to be scaled up to tackle the issue.

**What does trafficking look like?**

Defining the scope of the world’s human trafficking problem is extremely challenging, as it is very difficult to get accurate numbers. The ILO estimates 2.4 million people worldwide—almost the entire population of Toronto—are currently being exploited as victims of human
trafficking and this figure is broadly accepted within the international community.² However, there are a number of factors that complicate getting anywhere near a clear figure because trafficking is clandestine in nature, thoroughness of data collection and research varies and is often very poor.³ Nonetheless, it’s been established that trafficking victims from 127 countries have been found in 137 countries around the world.⁴ An estimated 80 per cent of those are women, and 70 per cent of them end up trafficked for the purposes of sexual exploitation.⁵ Experts estimate that the annual profits, from human trafficking alone, are at least US$32 billion.⁶ According UNICEF, an estimated 1.2 million children—half of the total number of trafficking victims globally—are trafficked each year, within countries


⁴ Ibid., 7.


⁶ The Cost of Coercion, 1.
as well as internationally. 

The Link Between Displacement and Trafficking

One can understand how desperation would drive displaced persons to take risks that they otherwise might not. They are a readily available supply of victims because “demand to move across international borders soars as people look for a way out of conflict, drought, floods, political oppression, endemic poverty or simply an inability to thrive.”

Uprooted from their traditional sources of support, having lost their livestock and other assets, they are left dependent on humanitarian assistance and often living in abysmal conditions. With very little hope in camps, displaced persons feel the pressure to look elsewhere to find opportunities. Louise Shelley writes:

Desperate and disoriented, they are ready to leave their camps but lack the resources to move.... The more affluent in conflict regions pay smugglers to move them and their children to safer countries where

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they can seek political asylum, but too often they too become trafficking victims.\textsuperscript{9}

Conflict-induced displacement puts vulnerable populations at risk not only during the conflict itself, but also in the chaos and lawlessness that occur in post-conflict situations as the displaced seek to return home. At this point even government officials have been noted as taking part in the trade.\textsuperscript{10}

It is for these reasons that Walter Kālin, the Representative of the United Nations' Secretary-General on the Human Rights of Internally Displaced urges that the international community aim to assure physical safety during resettlement, restore property, build (or rebuild) adequate housing, and foster access to “public services, livelihoods and income-generating activities, the restitution or replacement of identity documents lost or destroyed during displacement, and the reinstatement of voting rights and other political rights.”\textsuperscript{11} The presence of

\begin{itemize}
  \item \textsuperscript{9} Louise Shelley, \textit{Human Trafficking: A Global Perspective} (Cambridge: Cambridge University Press, 2010), 50.
  \item \textsuperscript{11} Walter Kālin, \textit{Promotion And Protection Of All Human Rights, Civil, Political, Economic, Social And Cultural Rights, Including The Right To Development} (New York: UN Human Rights
these factors in people’s living environments eases anxiety and gives displaced persons control over their lives and the environment around them. During a conflict it gives them a sense that they have something they can build and in the wake of conflict it means they can begin to return to normal.

**How conflict affects women**

But while this may often be the aim of the international community, too often we are failing the displaced to a shocking degree. In a refugee camp in Chad a group of seven women aged 13-30 were accused of prostitution, so some men in the camp beat them badly within earshot of the camp in an effort to ‘restore morality’:

In the wake of this attack, a committee of women gathered together to publicize the ways in which their lives as Darfuri women had been worsened by the refugee camp experience. At risk to their own safety, they demanded recognition and respect for their humanity, their dignity and their rights. The result was the Farchana Manifesto.\(^{12}\)

The Manifesto—posted to YouTube—outlined all of the

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ways the international community was failing the women in that camp. These deficits included freedom of speech, the right to work, property rights, freedom of movement, access to education, and personal safety and security. They made a point to single out the agencies for not listening to their concerns and the lack of a means to file a grievance.\textsuperscript{13}

Reports from aid agencies bear these facts out. These sentiments are echoed by researchers who find that women suffer disproportionately:

\ldots lack of access to resources and education, thereby heightening their vulnerability to various forms of exploitation and human trafficking. In search of opportunities to improve their social, economic, and political situations in more developed cities or countries, yet lacking comprehensive information or access to legitimate migration programs, many of these persons fall victim to human traffickers.\textsuperscript{14}

It is not a coincidence that women have the least access to resources in conflict situations and are the most likely to take the kinds of decisions that result in their being trafficked. The challenge of finding a legitimate way to flee conflict and improve their situation can be compounded in some areas where bans on women’s migration are actually instituted in a backward effort to prevent

\textsuperscript{13} Ibid.,

\textsuperscript{14} Nelson, *Literature Review and Analysis*, 3.
trafficking. Women will still be driven to change their surroundings, and a ban on legal migration only encourages illegal methods that lead to trafficking.

As the women in the camp in Chad lament, they have few rights and are treated like property, but in war torn countries women and children can also end up treated as commodities, bought and sold to finance conflict for one side or the other. Children are often trafficked to be soldiers or scouts for landmines. This practice occurs in countries as diverse as Colombia, Liberia, and Timor Leste.  

Finally women are at far greater risk of violence—particularly sexual violence—during times of conflict. Whether from men who take advantage of the chaos of the camps, militias like the Janjaweed who use it as an act of war, or even—shockingly—from peacekeepers themselves, women are extremely vulnerable.

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17 Nelson, Literature Review and Analysis, v.
Conflict increased the number of households that have a woman as the head of the family as men often go off to fight leaving the women to take care of the family. Women are then left with greater responsibilities in times of conflict—taking care of and providing for the family, at precisely the time that there are fewer resources to be had like credit, relief commodities, seeds, tools or land that they could farm.\textsuperscript{18}

Disproportionately affected by the fighting and in the most dire of circumstances with few legitimate options to escape, it can not be a surprise to the world’s leaders that women end up disproportionately trafficked to the point of making up 66 per cent of reported victims.\textsuperscript{19}

It follows then that as women are disproportionally affected by conflict, and women are disproportionally affected by human trafficking that humanitarian agencies would target them with relief. Beyond that it makes sense because history has demonstrated that aid assistance going


to women is more likely to have a significant impact on the family. As the World Bank points out:

Women’s exercise of agency improves their children’s welfare. Gender differences in preferences are reflected in different patterns of expenditure and consumption within the household, with women more strongly favoring investments in children’s human capital. Women’s control of income and assets is important as an instrument for child welfare.  

From Displaced to Trafficked

Amid the chaos of displacement and the cacophony of the camp, there is a moment when exasperation boils over and rash decisions are made, or parents simply don’t have the time to monitor their children constantly and provide for them as well.

In Pakistan, for example, refugee families in urban areas sent their children, often young and unaccompanied, out to collect garbage, placing them at risk for abuse and exploitation. In other situations, displaced children beg in the streets or work as domestic laborers for local households in order to contribute to their families' income. In extremely difficult circumstances, parents have, as an economic coping strategy, "sold" or married off young children, particularly girls, placing them at heightened risk of child prostitution, trafficking, and HIV/AIDS. Parents' negative coping strategies may, therefore, have a severe impact on child protection.  

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In conflict areas there is further risk of their being pulled into the fighting. As will be explored later, Sudan is home to one of the largest IDP crises on earth, with an estimated 2.7 million displaced persons in Darfur alone.\textsuperscript{22} In this context it is easy for trafficking to flourish, and the consequences can be dire, particularly for children. With so many armies in close proximity and looking for recruits,

... children are unlawfully conscripted, at times through abduction, and utilized by armed rebel groups - including all SLA factions, the Popular Defense Forces, Janjaweed militia, and Chadian opposition forces [. . .] the Sudanese Armed Forces and associated militia also continue to exploit young children in this region.\textsuperscript{23}

Once a child is separated from their parents they are more easily manipulated and often end up relying on their traffickers when they are placed in unfamiliar surroundings.

Traffickers’ approaches to recruiting women can be such that a woman may willingly involve themselves with a trafficker having been given promises of a better life. The lure of a job as a model, housekeeper, dancer or an au pair


in a stable country can sound legitimate, and few other alternatives available make it a seemingly obvious choice. Whether they are misled or kidnapped outright, the result is often the same in that, “After providing transportation and false travel documents to get victims to their destinations, they subsequently charge exorbitant fees for those services, creating lifetime debt bondage.”

As bad as conditions for displaced persons are, one act of desperation can quickly take things from bad to worse. Many trafficking victims suffer a combination of abominations including rape, torture, debt bondage, unlawful confinement, and threats against their family or other persons close to them as well as other forms of physical, sexual and psychological violence.

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Customizing relief efforts for women

Having examined how conflict disproportionately affects women and how women are far more likely to be trafficked as a result, it becomes quite clear that there is a need to tailor relief interventions to women so that they can have the maximum impact. Despite this, the need is often overlooked. As Amnesty International notes, “. . .only 13 of 34 peacekeeping and political missions have gender advisors, compromising mission ability to incorporate a gender perspective in prevention efforts.”

Despite this clear need, it isn’t always standard practice, and more could be done to better shape relief efforts to be more gender specific. Incorporating a gender perspective into prevention initiatives requires not only considering them in the planning stages, but including women in the design and implementation of prevention initiatives in order to benefit from their knowledge and insights.

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Security, awareness and livelihoods: key areas of prevention

The protection of women’s rights underpins successful trafficking prevention efforts and organizations typically aim to do that by ensuring their security and violence prevention, by creating awareness of the risks that can be coupled with illegal migration, and by increasing women’s access to economic and livelihood opportunities. The insecurity that is coupled with conflict and post-conflict areas is a key factor leading to women being trafficked. As UNGIFT points out, “What is common, is the extreme vulnerability of women and children living in war territories to being trafficked, in particular when the general level of violence against women is high.”  

Women and children are at greater risk of being trafficked in times of conflict because they can be uprooted from their social support network, but also because the lawlessness that comes with conflict allows traffickers to act with impunity. As we will examine in chapter four, preventing conflict in the first place, and ensuring women’s security during conflict can reduce their risk of being trafficked.

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Aside from this the strengthening of legal instruments around trafficking would also be a boon to anti-trafficking efforts, up to and including trafficking as a war crime under ICC statute and strengthening prosecution of gender based war crimes.  

Raising awareness of the risks of trafficking is another component in prevention activities not only among potential victims but also among aid organizations working in conflict areas. Many organizations put awareness raising among vulnerable populations at the center of their efforts and through billboards, pamphlets and multimedia aim to make those who might willingly enter into a relationship with a smuggler aware of the risks of their being trafficked either en route to or upon arrival at their destination. However, as in other areas of trafficking prevention, data in this area is spotty, and it is difficult to monitor the success of these initiatives and how many people escape trafficking as a result of information they have received. While awareness is important, but it does not address the root issues—many of

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29 Ibid., 16.

them tied to gender inequality—that cause displaced persons to want to flee in the first place.

**Livelihoods as a prevention tool**

Another key component in protecting women’s rights is the importance of empowering women economically. Having identified human security as essential, so is providing options for livelihoods. Indeed, the two are unavoidably entwined and the latter depends on the former:

Insecurity can prohibit the practice of any income generation activities that require movement outside of camps, as in the case of Darfur, where IDPs are unable to tend crops and graze livestock due to risk of attack by the janjaweed. Current and future shifts in the security environments in the regions of displacement also severely impact the sustainability of any livelihood approach.\(^{31}\)

As the most trafficked and the most vulnerable, this is where programs can have maximum impact to ease the suffering of displaced persons and help them build better lives for themselves and their families. Ensuring in particular that women have economic opportunities and other avenues available to them for growth, like education and vocational training, can reduce the chances that vulnerable populations will take risks they might otherwise not.

Intervention initiatives must “enhance women’s ownership

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and control over productive resources, access to markets, and movement up the production and market hierarchy in secure and sustainable ways. They must also ensure gender equality in the family, community and society at large.” 

In conjunction with efforts to reduce poverty, create political opportunities for women and promote equal rights and the rule of law, these opportunities can “provide important support and reinforcement for specific anti-trafficking activities targeted at the prevention of trafficking, and assistance and protection for victims.”

Moreover, it makes economic sense. UNHCR resources are already far short of what they need to be to fulfill their mandate. While UNHCR works to empower people to support themselves, their budgetary priority is by far and away focused on meeting basic needs and essential services. This area receives roughly 1.3 billion of UNHCR’s budget—more than six times what is spent on security from violence and

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exploitation and over four times what is spent on ‘durable solutions’ to displacement.\textsuperscript{34}

Camps for the displaced are enormous pools of talent that can work to support themselves, given the opportunity and the resources. This is important, as UNHCR notes:

In at least 47 countries, refugees do not have the right to engage in gainful employment, which makes them an inevitable financial burden on host states, rather than an economic asset. In a further 16 countries where UNHCR is working with IDPs, they have limited opportunity to engage in livelihoods and become self-reliant.\textsuperscript{35}

One way to counter this is by having displaced persons create the goods that will be needed by those living in the camp and to pay them for them, rather than bringing goods in from somewhere else. This has been a successful approach in Thailand, where displaced persons staying near the Burmese border now "weave the traditional sarongs for periodic camp-wide distribution."\textsuperscript{36}

At the end of 2010, more than 27.5 million individuals remained displaced due to conflict, violence or violations


of human rights. Not only does that represent a massive number of people to support, but it is an entire nation worth of productivity being squandered. It is imperative that this population be able to seek out or create jobs for themselves. The alternative means they are forced to put their lives on hold, they risk their skills becoming outdated, they are forced to be a drain on their host state, and it can spur a number of other social challenges.

The best livelihoods initiatives will be portable, in order that displaced persons can feel they are investing in something they will be able to take with them when peace arrives and they resume their normal lives. The will also not be make work projects, but meet a demand in the community. As Buscher notes, “Skills training programs for displaced women seldom, in fact, take into consideration or match local market needs. The rule for designing and implementing these interventions should be simple - no market demand, no training.”

Displacement as long-term development

In 2010, more than 50 per cent of the refugees assisted by UNHCR had been living displaced for more than

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37 UNHCR Global Report, 49.

five years—many for decades. At that time UNHCR worked in more than thirty protracted refugee situations. "UNHCR estimates that 'the average duration of major refugee situations, protracted or not, has increased: from 9 years in 1993 to 17 years in 2003'."

Despite the long-term nature of most refugee displacement, UNHCR is only just introducing what are called 'Transitional Solutions Initiatives' in partnership with UNDP which will pilot in eastern Sudan and Colombia.

In eastern Sudan, the programme aims at consolidating twelve camps hosting Eritrean refugees and several local communities into self-reliant villages. The initiative will include projects to improve health services, schools and infrastructure for water. Local market surveys and income generation activities will also be carried out.

It is essential that these displaced persons be offered the chance to grow and thrive. 17 years is far too long to be waiting to resume normalcy. However, one might argue that it is not UNHCR’s role to fill this mandate. UNHCR’s expertise is not concentrated in long-term development and these are clearly long term development

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39 UNHCR Global Report 2010, 60.


41 UNHCR Global Appeal 2012-2013, 66.
scenarios. It is essential that the UN’s development agencies—focused on supporting the world’s poorest and most vulnerable—step up to the plate and design projects in close partnership with UNHCR in order to benefit from their insight to the unique challenges faced by the displaced.

While a great deal is being done to make aid better targeted to encourage better results, there are still gaping holes in how it is delivered. If the international community is to keep its pledges on protecting displaced persons and preventing trafficking, current efforts will need to be scaled up. Massive strides have been made in recent years, but far more needs to be done in order to support women in desperate circumstances so that they can help themselves and their families.

The remainder of this thesis sets out to explore the moral and legal commitments that the international community has made to those displaced by conflict and to assess efforts at trafficking prevention in both a country struck by conflict and a transit and destination country.
CHAPTER 2: UNDERSTANDING RESPONSIBILITY—THE MORAL OBLIGATIONS OF THE INTERNATIONAL COMMUNITY

Before assessing global efforts to fight human trafficking, it is helpful to put theoretical lenses in place to help explain why the international community has a responsibility to act in mitigating its spread.

The international community’s obligations in bolstering anti-trafficking efforts can be better understood by looking at them through the lens of the ‘Responsibility to Protect,’ and can also be informed through insights drawn from Larry May’s theory on ‘Collective Inaction’ and Guy Adams and Danny Balfour’s ‘Unmasking Administrative Evil.’ These theories combined provide a mutually reinforcing view of global affairs that drives home the moral justification for a better global approach to human trafficking.

Humanitarian Intervention and the ‘Responsibility to Protect’

In considering human trafficking it is worth doing so through the lens of Humanitarian Intervention theory and more specifically the ‘Responsibility to Protect’ (R2P). Humanitarian Intervention theory focuses on armed military action on the part of the international community when a given nation is either unable or unwilling to prevent
atrocities within its borders. It is rooted in Kantian theory, which emphasizes the importance of respect of the individual and their autonomy:

Thus, we respect others as persons (negatively) by doing nothing to impair or destroy their capacity for autonomy, by not interfering with their autonomous decisions and their pursuit of (morally acceptable) the ends they value, and by not coercing or deceiving them or treating them paternalistically. We also respect them (positively) by protecting them from threats to their autonomy (which may require intervention when someone's current decisions seem to put their own autonomy at risk) and by promoting autonomy and the conditions for it (for example, by allowing and encouraging individuals to make their own decisions, take responsibility for their actions, and control their own lives).¹

Humanitarian Intervention theory is relevant in considering human trafficking because very often trafficking occurs as a result of conflict, but even more importantly because of what it says about common global values and the occasional need to reach across borders to enforce and uphold them.

In his piece on Humanitarian Intervention, Terry Nardin argues that there is a “common morality” which underlies relations between all human beings, as distinct from the morality shared by members of particular

communities. He argues that this notion of a common morality is at the core of cosmopolitan thought in international relations.

Common morality forbids us to use other human beings to achieve our ends. Using force, without good reason, violates the principle of respect. This explains not only why murder and slavery are wrong, but also why self-defence is morally justifiable. But common morality does not limit the use of force to self-defence. It also permits us to defend the rights of others when those rights are threatened. . . .

Nardin argues forcefully on behalf the international community’s obligation to prevent senseless and egregious violations of human rights. He and others who have crafted arguments in favour of Humanitarian Intervention have been focused mostly on preventing acts of genocide and other wars of attrition on the part of a government against its own people. However, if a government is carrying out attacks on its own people that are leading to deaths, and other rights violations then what will stop the international community from equivocating until it is agreed by all sides to have escalated to a genocide? Why wait until thousands or more have died?

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When considering intervention in the context of human trafficking, it is important to know that intervention itself can exacerbate the challenges of fighting trafficking. As will be discussed below, removing an oppressive regime from power can inadvertently fuel trafficking as it increases demand for sexual services on the part of soldiers. This can, and is, being addressed by the UN and other organizations.

The tension between state sovereignty and the universal right to freedom from oppression led former UN Secretary General Kofi Annan to ask “if humanitarian intervention is indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica - to gross and systematic violations of human rights that affect every precept of our common humanity?”

This question spurred the genesis of the Government of Canada supported International Commission on Intervention and State Sovereignty, which aims to help guide world leaders in deciding how and when to intervene when a state is oppressing its own people. This international panel comprised of various foreign ministers and international

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luminaries agreed that when a government either violates their own citizen’s rights, or fails to protect them, then the international community is under some moral burden to help protect those victims and to mitigate suffering—even if it means violating sovereignty. Tasked with examining the issues surrounding state sovereignty, the panel concluded as follows:

State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

This report was the beginning of the ‘Responsibility to Protect’ doctrine, which is predicated on the notion that in an increasingly borderless world, the international community values a shared humanity over a government’s right to sovereignty. Francis Deng and Roberta Cohen had provided the underpinning for this work with their concept of ‘sovereignty as responsibility.’ “The concept of sovereignty cannot be dissociated from responsibility: a state should not be able to claim the prerogatives of

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sovereignty unless it carries out its internationally recognized responsibilities to its citizens." The valuing of an individual’s human rights over a nation’s borders has obvious implications for the fight against trafficking. Two years later, Deng would pen the Guiding Principles on Internal Displacement that are examined in the following chapter.

There are those who take this sentiment a step further, and argue for an approach not dissimilar from that put forward by theorists Glasius and Kaldor. They argue for a security policy that moves beyond looking at states as homogenous entities that are either threats or in need of protection, to looking instead at the people that comprise them:

Individuals, not states, should be the focus of European security policy, both as victims and sources of insecurity. Protecting individuals can include the creation and protection of safe havens where civilians can find refuge...or the return of refugees and displaced persons.6

While it may be conceded that individuals and the

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protection of human rights should be the focus of international security policy, the panel argues that sovereignty is still important, and that states must continue to be the building blocks of the international community.

. . . Effective and legitimate states remain the best way to ensure that the benefits of the internationalization of trade, investment, technology and communication will be equitably shared. Those states which can call upon strong regional alliances, internal peace, and a strong and independent civil society, seem clearly best placed to benefit from globalization. They will also be likely to be those most respectful of human rights. And in security terms, a cohesive and peaceful international system is far more likely to be achieved through the cooperation of effective states, confident of their place in the world, than in an environment of fragile, collapsed, fragmenting or generally chaotic state entities.  

Another key shift that the ICISS makes is from basing intervention on legal grounds to basing it on moral grounds. The moral argument is compelling, because as Nardin states, “it is reasonable to say that we have a moral obligation to intervene for the protection of others because we would want them to intervene on our behalf if the roles were to be reversed.”  

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The ‘Responsibility to Protect’ relates directly to human trafficking particularly in the context of displaced persons. Audrey Macklin observes of Deng’s Guiding Principles: “Firstly, forced displacement is itself (where arbitrary and/or of undue duration) is a violation of human rights and secondly, displacement precipitates and or exacerbates the violation of many fundamental human rights and provisions of international law.”

In examining the issue of trafficking as a result of forced displacement then, the ‘Responsibility to Protect’ is doubly relevant, as ensuring people’s security in conflict situations protects them from displacement and the harms that come with it, up to and including death.

But the panel went even further, as it acknowledged a broadening of the definition of human security to say that “Human security means the security of people – their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms.” Surely accepting this broader definition lowers

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9 Macklin, “Legal Aspects of Conflict-Induced Migration,” 27.
the bar for international protection efforts to being less than crimes against humanity; and therefore increases the onus on states to intervene to prevent acts that would see people’s property taken, their livelihoods ruined and often results in modern day slavery.

The final key difference that links the ‘Responsibility to Protect’ with a more aggressive prevention of wrongs like human trafficking is, “the notion of a responsibility to act – which is related to the stronger concept of duty – implies that the commissioners believe interventions for humanitarian purposes should be undertaken (in extreme cases).”\textsuperscript{1} As Walsh et al go on to point out, this concept turns from a perspective that dates back to medieval where an individual has a right to intervene to prevent harm from others, if it is not too great an inconvenience to that person having a responsibility to intervene in order to prevent suffering.\textsuperscript{2}

Barring death, surely there is little more extreme

\textsuperscript{10} The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, 15.


\textsuperscript{12} Ibid., 501.
that modern day slavery which often includes torture and the rape of children. As we will see in the coming chapters, certain rights are granted to displaced persons, and the arguments behind the ‘Responsibility to Protect’ are equally applicable in preventing and policing other injustices.

**May’s Theory on Collective Inaction**

Moreover, May’s theories on ‘Collective Inaction’ aptly demonstrate the moral responsibility that falls to members of the global community to act to improve the lot of others. His theory is particularly pertinent in discussing an issue like human trafficking because May frames it in the context of issues that are so great they can make one person feel as though their action can have little impact on the issue as a whole. May argues that the scope of the challenge of these global public goods is sometimes so great that it becomes reason for inaction in itself:

But just as a person’s inaction makes him or her at least partially responsible for harms that that person could have prevented, so collective inaction of a group of persons may make the members of that group at least partially responsible for harms that the group could have prevented.\(^{13}\)

According to May, a given member of the international community then is at least partly responsible for wrongs that they know are occurring but don’t do enough to combat, whether or not their inaction stems from feelings of futility at the intractability of a given issue.

There is perhaps no better example to illustrate this than the Collective Inaction around human trafficking. For traffickers to succeed it depends on society turning a blind eye at many steps in the process: families and even communities more broadly tacitly observing as a parent sells their child; an officer who doesn’t look in the back of a truck after being slipped a bill; a customs official turning a blind eye to a string of immigrants with no passports as a favour; a neighbour who doesn’t report suspicious behaviour because they don’t want any trouble; johns being asked for help when they visit a brothel but doing nothing; work colleagues who don’t want to jeopardize a business relationship and report co-workers; families and friends in western countries who overlook some of their loved one’s darker habits. There are numerous points at which any given trafficking victim may have been saved or protected but inaction or ignorance on the part of a casual observer meant they would be left to suffer. Not all of
these people who intersect with a trafficked person may know the scale of the injustice they witness and may only sense that something is not right, but in failing to inquire, they are not living up to their role as global citizens.

May’s theory of responsibility is predicated on the assumption that something conceivably could be done by the group to prevent harm. If people fail to act when there is no chance their actions could prevent harm befalling anyone, they cannot reasonably be held responsible.

For negative moral assessment of the harmful consequences of group inaction, there is required the notion that a collection of people should have acted differently as a group, and this implies that it was plausible to think (not merely theoretically possible) that the collection of people could have so acted.¹⁴

May’s final key point is that those within a given group have varying skill sets, and so responsibility within the group should be apportioned accordingly. He uses the hypothetical example of a group of people on a beach who see a child drowning several hundred yards out, but fail to act, and so the child drowns. The responsibility for the child’s death is not to be divided up equally. Within the group, he attributes blame to those that are unskilled;

¹⁴ Ibid., 270.
however, he argues that those with leadership skills who could have led the group to save the drowning child are more culpable than those without.  

In a globalized world, all are capable of action, and can mobilize resources, however small, to mitigate suffering in any other part of the world. Society has never been more able to access information on an array of issues, including trafficking, and so can be aware when they come into contact with a trafficking victim and can raise funds or awareness to fight it. Indeed, when even children mobilize substantial resources to addressing injustice around the world can anyone say they aren’t able to contribute? At the same time those who have skills that they can use to address injustice are morally obliged to do so.

Taking this argument even further, May omits a very important element insofar as a given community can vest power in an individual, and that person then has a responsibility to affect change that is reflective of their position and resources. Failure to bring those resources

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15 Ibid., 275.

efficiently and effectively to bear on the challenges they are expected to resolve puts an increased amount of responsibility on their shoulders. Had May’s group on the beach been members of a community that had hired a lifeguard, they would all still bear some responsibility for the drowning child, but they would have a reasonable expectation that at very least the lifeguard would know how to approach saving the child and then spearhead efforts to save the child. That lifeguard would bear increased responsibility. If the community had also purchased a rescue boat, throw line and life preserver, and the lifeguard for whatever reason “just didn’t feel like” saving the child, then they would bear further moral responsibility still. In this way a community can vest power in and entrust resources to someone with the reasonable expectation that they address the issues that they have been charged with and more should be expected from those people in that particular situation.

To apply this to the case of our trafficking victim, clearly increased responsibility falls on the shoulders of those who should know better. When we hear stories of customs officials, police officers, aid workers and peacekeepers that have taken part in, or benefited from,
human trafficking we are particularly appalled because it is their job to know better and to protect that victim.

To apply this line of thought in a global context, the international community has representatives whose roll it is to handle some issues on behalf of their nation, both domestically and internationally. Parliamentarians and international bureaucrats not only have leadership skills in these given areas, but also often have technical skills and resources behind them that they are to wield in the name of the people they are serving. We have entrusted these representatives to guide key institutions in our global community and with these increased resources comes increased responsibility that is commensurate with one’s capacity and power to affect change. In this respect Parliamentarians who are simply waiting to collect their pension when they could be improving the legal framework around trafficking issues, or international bureaucrats who punch the clock and scapegoat other departments when projects don’t move forward or government leaders who make bold commitments to public acclaim and then fail to fund their ambition, would all bear more of the weight of that responsibility.
In these key respects, May builds a compelling case for sharing responsibility for collective inaction within a community. These insights suggest that a person is morally responsible if their inaction contributes to the harm of another, that this is only the case when they could plausibly do something to mitigate harm or suffering, and that responsibility can be attributed based on a person’s skills and even their position and resources within the community. These insights create a compelling framework for involvement in global issues like human trafficking on the part of the international community.

**Exploring Administrative Evil**

Finally, Adams and Balfour’s ‘Unmasking Administrative Evil’ also raises some interesting theoretical questions that are worthy of consideration. What Adams and Balfour describe as ‘administrative evil’ includes the blind following of orders and the dehumanization of people through bureaucratic numbness, but most importantly for our purposes incorporates incompetence or inefficiency that puts others in harm’s way.

In explaining administrative evil, Adams and Balfour discuss the holocaust at great length as an example of the results that are possible when a bureaucracy functions with
ruthless and terrifying efficiency. They explain that in Nazi Germany the bureaucracy, in the absence of a code of ethics that might have constrained its participation, “was only following orders” when it carried out its role of supporting the goals of the legally recognized government. The efforts of that bureaucracy resulted in the deaths of millions of Jews in Nazi-era Europe, and remain a disturbing example of what can occur when a bureaucracy blindly carries out their work as routine.

Within their work Adams and Balfour discuss the disturbing numbness with which many in the German bureaucracy carried out their tasks. The extermination of Jews was just a policy end; a logistical task which they set about trying to solve. In this respect, for many working for the government at the time, there was a disturbing clinical coldness about the task that resulted in the functional dehumanization of Jews. As Albert Speer, Hitler’s minister of armaments said: “If I had continued to see them as human beings, I would not have remained a Nazi.

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18 Ibid., 16.
I did not hate them. I was indifferent to them.” The bureaucracy allowed itself to view Jews as tasks, numbers, and a plague to be rid of. It ceased to view them as human—and this made their extermination easier.

The challenge of applying a theory that uses such a horrific and caustic example is that it can overshadow the larger point: that bureaucracies are at their worst when they begin to become detached from those they are there to protect and to serve. To be clear: it would be foolishness to make a direct comparison between those bureaucrats currently in the world’s national and multilateral bureaucracies and those that facilitated the holocaust in World War Two Germany.

However there is a parallel to be made when people become so entrenched in their positions that they cease to see themselves as protecting individuals. When they make decisions, government leaders and bureaucrats alike need to think of those their decisions affect as people—individuals with first and last names—rather than statistics. When people become so entrenched that they lose sight of the individual and the broader goals their organization seeks

\[19\] Ibid.
to accomplish, they should leave and make room for someone else.

In some respects it is understandable. No doubt working on these issues for an extended period of time desensitizes you to the content matter to a certain degree. In the process of writing this paper the author has at various intervals been so struck by the twisted disdain that one human could have for the life of another that he has needed to leave the work to recuperate. However, it is a concern when this occurs to the point that they have dehumanized the people they serve.

Administrative Evil is not just restricted to cold-hearted efficiency, however. Adams and Balfour also argue that bureaucratic inefficiency or inertia to the point of incompetence is also a form of evil if it means jeopardizing lives or putting people in harm’s way. If one’s role is critical to the protection of others, it is imperative to perform that role to the utmost of one’s ability.

To illustrate their point Adams and Balfour needed a well-documented example of bureaucratic ineptitude, and they chose to examine the Challenger disaster in 1986 as an example of a tragic failure of bureaucratic checks and
balances. At first glance the comparison is a bit odd, on account of the obvious difference in scale between the tragic losses of millions in the holocaust and the deaths of all seven crewmembers aboard the challenger shuttle when it exploded. However, the intense scrutiny that the latter has received helps to delineate exactly where some of the breakdowns occurred that enabled this event. In the case of the Challenger explosion the bureaucracies ended up undermined as key research was swept aside,\textsuperscript{20} it struggled due to lack of funding\textsuperscript{21} and managers succumbed to pressure from their political counterparts.\textsuperscript{22} In this way Adams and Balfour aptly show how an otherwise functional bureaucracy defeated itself and ceased to function in the way it was intended. Despite having some uniquely talented and intelligent people, the organization ended up being considerably less than the sum of its parts.

This perspective can shed light on human trafficking because the fate of those individuals trafficked rests largely on the efforts being carried out by bureaucracies that do not fully value the importance of their role. There

\textsuperscript{20} Ibid., 111, 116.

\textsuperscript{21} Ibid., 116.

\textsuperscript{22} Ibid., 119.
are those who would point to the efforts of some of the bureaucracies involved in combating human trafficking and argue that were it not for infighting and bureaucratic inertia that more success might be had. Further, it is an issue when those we have entrusted with the role of keeping people safe begin to see what they do as “just a job.” They are not just jobs. Those in the corridors at UNODC have been put in place to stamp out humanity’s greatest evils and as such the world needs them driven by a righteous anger as they tackle these issues. Those in governments around the world have been entrusted with their nations resources to reach out and support those in the most desperate circumstances. When people are depending you to work to uphold their rights—including freedom from slavery—losing sight of this and going through the motions is, in a small way, a form of evil. It means those resources that they have been entrusted with are not being used to greatest affect and the end result is that injustice is allowed to continue.

There are a number of ways of framing the moral responsibility that the international community has to prevent human trafficking and to protect its victims. As will be discussed, each of these theories has its own
implications for the fight against trafficking and can shed unique light on how the challenges can be approached. Clearly there are many areas in international theory that argue there is a moral imperative not only to act to intervene to prevent injustices like human trafficking from occurring, but to do so effectively and efficiently. In failing those trafficked we not only fail to live up to the standards and ideals put forth by the international community, but we also fail the standard of decency that our humanity demands of us. As the UNODC says, human trafficking is a crime that shames us all.
CHAPTER 3: BRIDGING THE CHASM BETWEEN ASPIRATION AND REALITY IN SUPPORTING DISPLACED PERSONS

There is no shortage of aspiration amid the organizations that shape our world or the representatives who lead them. There are countless conventions, declarations, goals, and protocols that have been put forth in an effort to inspire and drive nations to greatness. However, despite the best intentions of the international community, there is a considerable gap between rights that nations have pledged to uphold and the rights that are afforded many in desperate circumstances in countries around the world.

One group consistently neglected by the international community is those that have been displaced by conflict. The international community is failing to meet its obligations to refugees and internally displaced persons, particularly in upholding women’s rights, and the resulting desperation puts that group at greater risk of being exploited and trafficked. By examining the commitments that the international community has made to displaced persons and then looking at what is actually happening through the lens of the ‘Responsibility to Protect,’ it becomes apparent that the current state of affairs is unacceptable by the standard we have set ourselves.
All Resolutions, Little Resolve

Many of the pledges made by the international community to those displaced by conflict are enshrined in the conventions and protocols of the United Nations. The plight of IDPs and refugees are often quite similar: forced from their homes they may flee to new communities where they lack a safe, secure environment to live as well as access to sufficient resources to support themselves and their families. The key difference between these groups is simply that a refugee has crossed an international boundary at some point and as such it is worthwhile to consider them together.

In identifying where the international community is failing short of its obligations to those displaced by conflict it is first important to assess what those obligations are specifically. The United Nations Convention Relating to the Status of Refugees delineates who qualifies as a refugee, refugee obligations to their host states, and host state obligations to refugees within their borders.

The convention defines refugees as those who,

. . .owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having
a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹

The convention also outlines certain rights that are to be afforded refugees including the freedom of association, access to courts, wage-earning employment, housing, public education, public relief, and freedom of movement, among others.² Perhaps most importantly, the convention and its protocol establish the principle of non-refoulement, which states:

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.³

Trafficking victims can be eligible for asylum under the Convention on Refugees; however, it can be difficult for them to assert that right as they need to prove they meet the definition. Some countries are reluctant to grant this right as it can be difficult to prove they have


² Ibid., 30.

³ Ibid., 36.
legitimate fear of persecution due to membership of a particular social group.⁴

While these rights are a solid basis for easing the desperation of refugees, host countries are often either unable or unwilling to fulfill these commitments.

Internally Displaced Persons are covered by the Guiding Principles on Internal Displacement established by the UN in February 1998, decades after the Convention Relating to the Status of Refugees. While the Guiding Principles themselves do not constitute a binding legal instrument, they “reflect and are consistent with international human rights law and international humanitarian law.”⁵ Endorsed unanimously by heads of state at the World Summit in 2005, they represent a rare consensus in an arena where agreement is often forged with great difficulty.


The Guiding Principles define internally displaced persons as follows:

. . .persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized border.\(^6\)

The Guiding Principles establish that IDPs have the right to protection and humanitarian assistance and that the responsibility for this falls on the shoulders of the national authorities of their own state.\(^7\)

Under the Principles, the state should seek prevent displacement to the greatest extent possible and then to protect the life, security, dignity and “physical, mental and moral integrity” of those displaced.\(^8\) Access to food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation should also be provided to IDPs.\(^9\) Apart from these freedoms that are simply necessary for survival, a number of other

\(^6\) Ibid., 3.

\(^7\) Ibid., 6.

\(^8\) Ibid., 8.

\(^9\) Ibid., 11.
rights are enumerated, notably freedom of religion, the right to education, and "the right to seek freely opportunities for employment and to participate in economic activities."\(^{10}\)

Though conceived decades apart, the intent of the authors of both the Convention on Refugees and the IDP Guiding Principles was quite similar—to minimize the unnecessary discomfort of those displaced by conflict or disaster to the greatest extent possible. Not only is there a moral imperative to minimize human suffering, but also an economic incentive to ensure the potential in these populations is not squandered, and that the disruption to their productive lives is as little as can be managed.

Passed in 1979, the *Convention on the Elimination of All Forms of Discrimination Against Women* directly addresses the issue of trafficking. Article 6 states that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."\(^{11}\) The

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\(^{10}\) Ibid, 12.

thirty-year-old declaration was clearly insufficient to spur substantive legislative efforts on the part of national governments and the relative inaction that followed it and the need for something more targeted left space for yet another Declaration on the Elimination of Violence Against Women and the development of a more comprehensive Protocol on Trafficking.

Almost twenty years ago, state signatories of the Declaration on the Elimination of Violence Against Women pledged among other things to develop legislation and ‘preventative approaches’ to protect women, to punish acts of violence against them, including trafficking, and to work with NGOs to address the issue. Further they sought to ensure, where needed within the framework on international cooperation, that “women subjected to violence and, where appropriate, their children have specialized assistance. . .as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.”

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In addition to this, the General Assembly has passed four resolutions specifically on the issue of Trafficking in Women and Girls since 2000. Generally, these acknowledge what is occurring, express “grave concern,” call on governments to develop their legal frameworks, note the importance of prevention of conditions that exacerbate trafficking, and commend the work that is being done.\textsuperscript{14}

Finally, to address the issue of trafficking specifically, the UN produced the Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children, supplementing The United Nations Convention Against Transnational Organized Crime. Section III of the protocol holds that States Parties will establish comprehensive policies, programmes and other measures, “to prevent and combat trafficking in persons and to protect victims of trafficking in persons, especially women and children, from re-victimization.”\textsuperscript{15} More specifically, the protocol adds that “States Parties shall

\textsuperscript{13} Ibid., 5.


take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”  

Where aspiration meets implementation

The Protocol represented a commitment to the world’s most vulnerable people that the 117 country signatories would do all they could to protect them from further hardship in the form of trafficking. The agreement was an essential step in creating a formalized framework within which government’s efforts to prevent and combat trafficking could be improved and made more strategic. Yet despite the relatively quick passing of the Protocol, some nations have been faster to uphold their commitments than others.

The UNODC seems to view the current state of affairs as a success, noting as follows:

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16 Protocol To Prevent, Suppress And Punish Trafficking, 7.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons only came into effect in December 2003, but it has inspired widespread legislative response. As of November 2008, 63% of the 155 countries and territories this report had passed laws against trafficking in persons addressing the major forms of trafficking.18

It is commendable that the Protocol has fostered improvements in legislative frameworks around the world. However, it is concerning that—after five years—almost 40 percent of the countries that signed on to the agreement had yet to pass laws to stamp out trafficking and protect its victims.19

Not all of the Trafficking Protocol is binding to states. Under the Protocol states are obliged to be in compliance with Article 5 on criminalization, which calls for states to adapt legislation to make trafficking, attempted trafficking and participation as an accomplice in trafficking or directing others to commit trafficking, a criminal offence.20 Signatories are also obliged to meet

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19 It’s worth noting that the protocol was adopted by the General Assembly in 2000, but only came into effect in 2003. So member countries really had closer to eight years to make legislative improvements.

20 Protocol to Prevent, Suppress and Punish Trafficking, 3.
their commitments under Article 9, which deal with creating comprehensive policies and programs to prevent trafficking and to protect victims, especially women and children, from re-victimization.

However, Articles 6 and 7 are partly optional for states. These articles deal with “assistance to and protection of victims of trafficking in persons” and “Status of victims of trafficking in persons in receiving States”, respectively.

Granted, these are massive commitments to a sprawling and diverse group, which certainly includes but is not limited to displaced persons. However, as the numbers of people displaced and subsequently trafficked around the world continue to grow, one must question whether more could and should be done to bolster these most vulnerable not only to protect them from harm, but also to help them to protect themselves. The UN General Assembly has demonstrated their disdain for the practice of trafficking over the last thirty years. They have stated clearly their ideals. And yet their support for the fight against trafficking seems quite shallow. The latest Report of the Secretary-General on Trafficking in Women and Girls notes that a meager 59 states responded to his request for
information on the issue.  

Sadly, key players in the global community—like the United States—were notably absent from the list of respondents. It is well past time to significantly increase operational efforts to prevent and protect further victims of trafficking in order to stamp the practice out, and prevent the need for any further declarations in the coming decades.

**The space between our ideals and our wallets**

Despite the best efforts and intentions of those organizations tasked with aiding in the relief of refugees and IDPs and protecting them from trafficking, the global community continues to fall well short of funding their stated ideals. Development organizations and UN agencies are tasked with mammoth issues to address and then so absurdly under funded by their donor governments that there is no way they could meet their objectives.

UNHCR is one such example as the UN’s key organization that is meant to find durable solutions for refugees and has a responsibility “to ensure that refugees, asylum seekers, IDP’s, stateless persons, and other persons of

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concern do not fall victim to trafficking.” The organization also takes the lead in providing for the protection and shelter for refugees and IDPs and coordinates camp management.

Every year UNHCR delineates a number of priority areas within their purview that demand attention, and puts together a ‘comprehensive budget’ of what it will cost to address them. In their Global Report for 2010, UNHCR offhandedly notes that, “in 2010, UNHCR received 58 per cent of the funding required to address the needs identified in the comprehensive budget.”

It is concerning that, when faced with the bill from the world’s leading refugee experts on what it would take to protect and alleviate the suffering of some of those living in the most desperate circumstances, global leaders opted to cover less than two thirds of the tab.

Failure to grant UNHRC the funding it needs has real repercussions on the ground and means that a number of rights afforded to refugees and are not being upheld. The

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numbers are an indictment. In at least 64 countries, populations of concern do not have effective access to national justice systems. In 35 countries refugees do not have freedom of movement. In at least 73 camps, the global acute malnutrition rate exceeds acceptable standards. 40 per cent of refugee households (approximately 1,600) in camps do not live in adequate dwellings. 56 refugee camps (almost half) are currently known not to meet the standard of providing 20 litres of water per person per day. 96 refugee camps do not have adequate sanitation facilities. In 132 refugee camps, 31 per cent of children aged 6-11 are not enrolled in primary schools. By almost any measure, the world is failing in its commitments to refugees across the board.

Furthermore, looking at IDPs specifically, UNHCR reports that in at least 24 countries where UNHCR is operationally involved, the protection needs of IDPs are not fully addressed in a manner consistent with the Guiding Principles. Compounding the challenges for those on the ground who are already trying to “do more with less” is the

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25 Ibid., 15.
26 Ibid., 17.
27 Ibid., 11.
fact that the number of people displaced worldwide is growing. After the Principles had been in place for a decade Walter Kälin, the Representative of the United Nations' Secretary-General on the Human Rights of Internally Displaced Persons noted as follows:

. . .over the past 10 years, the number of internally displaced persons - today estimated at 1 per cent of the world’s population - has not declined. Rather, it continues to increase, primarily as a result of the growth in disaster-induced displacement related to climate change, but also because of protracted displacement in the context of unresolved armed conflicts.28

What may be most telling about the state of the world's displaced persons is that in order to be realistic, UNHCR has been forced to shift their sights downward from targets that match the UN’s ideals. For example, currently 46 per cent of newborns in refugee camps are not granted a birth certificate. That means they do not have citizenship and represents a significant challenge for them to move towards some semblance of normalcy in their lives even after they escape the camp. The UNHCR target is now to move to 65 per cent of newborns in 103 camps issued a birth certificate.29 That still leaves a staggering one in every three refugee

28 Kälin, Promotion And Protection Of All Human Rights, 23.
29 UNHCR Global Report. 15.
children essentially born stateless. This is just one of many areas that UNHCR is trying to help all they can, while acutely aware of the degree to which the world’s displaced are suffering. While many international organizations and UN agencies are “celebrating their results” in order to attract increased funding, UNHCR has the solemn task of letting the global community know how badly we are failing the world’s displaced every year.

At worst these figures represent a grim failure of some of those in most desperate need of the global community’s support; at best they are a triumph of the middling. The UNODC is a key organization in the fight against trafficking, but recently also conceded lacking sufficient funds to fulfill their mandate on combating trafficking in their latest strategy. One might question why nations would put the aid architecture in place to support refugees if the only purpose it serves is to draw attention to how shallow the support for them is.

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Funding Global Ideals

Having put the organizations in place to protect refugees, donor countries must give them the resources to do their jobs. There are those who would quibble that the UN machine is expensive to run, and that under-funding forces them to find efficiencies. However, when you consider that UNHCR is responsible for roughly 34 million people of concern—a population the size of Canada’s—scattered across 125 countries and working in some of the most difficult environments on earth, the 1.88 billion spent on them\textsuperscript{31} is a bargain.\textsuperscript{32}

The responsibility for funding interventions to support the needs of displaced persons and to uphold their rights must fall to the wealthiest countries. The Convention on Refugees holds states responsible for supporting the refugees within their borders but those countries hosting refugees are often amongst the poorest in the world, making this notion unlikely. For IDP’s the issue is even more complex, because of sovereignty issues:

\textsuperscript{31} UNHCR Global Report, 2.

\textsuperscript{32} Particularly when you consider that the Canadian government spends $276 billion to protect and ensure the rights of their own citizens and provide them with services.
Although it is clear under international law that states themselves carry the primary responsibility to protect their own citizens, the governments of many countries that experience internal displacement are either actively involved in the persecution of IDPs or are unable or unwilling to protect them. \(^{33}\)

Conflicts occur most often in the poorer (or poorest) countries of the world that have already stretched their budgets trying to ensure they are meeting the needs of their own citizens. The additional burden of a large group of displaced persons in a country like Chad, for example, is not a welcome responsibility. Resentment comes not only from the host government, but from the communities that people settle near, as they may be perceived as stealing jobs or already scarce resources. Worldwide, the highest ranked countries in terms of refugee population tend to be the least fortunate. Worldwide, it was recently Pakistan that hosted the largest number of refugees in relation to its economic capacity.

Pakistan verges on being a failed state:

The country hosted 733 refugees per 1 USD GDP (PPP) per capita. It was followed by the Democratic Republic of the Congo (496 refugees per 1 USD GDP (PPP) per capita) and the United Republic of Tanzania (262). The first developed country is Germany at 26th place with 16 refugees per 1 USD GDP (PPP) per capita. \(^{34}\)

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\(^{34}\) 2008 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons (Geneva: United
Clearly states that are struggling to provide for their own citizens will need assistance if they are expected to provide for others as well. The responsibility then, falls to the other signatories of the convention, and particularly the governments of those countries that have healthier economies in areas where there is less conflict. It is essential to ensure that displaced persons are sufficiently cared for in order that their desperation does not drive them to take risks that could get them trafficked, or see them participate in other illegal activity in order to provide for their families. The burden the poorest countries currently bear is not one of their choosing, and because refugees are a global issue these countries deserve greater support in addressing the challenges associated with that.

CHAPTER 4: SAFETY AND SECURITY AS PREVENTION EFFORTS

More than any other aspect of displacement, human security is the cornerstone upon which all other efforts to support displaced persons must be built and is essential component in preventing trafficking. Security ties directly to most areas where the rights of displaced persons suffer including women’s rights, freedom of movement, freedom of religion, freedom of speech, and freedom to pursue economic opportunities. Improving security conditions—particularly for displaced women—is essential if the international community is to fulfill its obligations under the conventions and protocols. It remains a key concern for advocates of rights for displaced persons, as Walter Kälin has noted, "[Displaced persons] must be protected from attacks, harassment, intimidation, persecution, or any other form of punitive action upon return to their home community or integration in a new community." Despite this, and considerable investment by UN arms like UNHCR and DPKO, it is an area where the international community consistently fails the displaced. The intransigence of security issues stems in part from their complexity, but also from the closely tied issue of sovereignty and

1 Kälin, Promotion And Protection Of All Human Rights, 11.
sensitivity of some nations to just having neutral armed forces on their soil.

The Government of Sudan is one such state actor that actively oppressed its population. The government in Khartoum has carried out attacks amounting to genocide on the country’s beleaguered Darfur province for almost a decade and despite the peace accords of 2005 continues to attack areas in the south of the country which remain disputed. The result of this violence is that the country has the dubious honour of the largest displaced population in the world at an alarming six million people.² An estimated 15000 women and children in South Sudan alone are now in slavery or forced prostitution as a result of the conflict.³ For this reason the country can yield some examples of the kinds of security challenges faced by IDPs, particularly in terms of preventing and ending conflict, protecting camps from external threats while conflict is


ongoing, and ensuring the safety of those within the camp particularly from gender based violence.

**Preventing and ending conflict**

Sudan represents a prime example of the kind of situation that begs for the international community to invoke the ‘Responsibility to Protect’. The ICISS doctrine calls for all possible avenues for intervention to be explored, including diplomacy and sanctions, and at this point the only thing the international community has yet to try to get the government to stop oppressing its citizens is armed intervention.

The government has been routinely confrontational with international stakeholders, even threatening to attack UN troops if they came to observe the conflict. It wasn’t until a joint mission of African Union soldiers and UN peacekeepers was proposed that Sudan’s President Omar Hassan al-Bashir relented to a peacekeeping presence in the country, having previously said he would “personally lead the resistance to a U.N. force, comparing it to a Western invasion to colonise Sudan.”

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Repeated requests by the UN Representative for IDPs to visit to observe have been denied.\textsuperscript{5} Further efforts by international actors to fulfill their protection mandates have been resisted by the combative regime in Khartoum, while “rape by militia is recognized as chronic and widespread.”\textsuperscript{6} Most importantly the Sudanese government has demonstrated that not only is it incapable of protecting its citizens, it is bent on systematically oppressing them, and carried out multiple genocides over the last twenty years.\textsuperscript{7} Indeed the attacks on Sudan’s own people continued even as this paper was written and so far the international community has only issued hollow statements of alarm. \textsuperscript{8} As Amnesty international reports:

Most recently, on 6 February, four bombs were reportedly dropped on and around a health clinic in Kurchi, Southern Kordofan, damaging the clinic and the

\textsuperscript{5} Kälin, \textit{Promotion And Protection Of All Human Rights}, 13.

\textsuperscript{6} Macklin, “Legal Aspects of Conflict-Induced Migration,” 30.


few medical supplies that were left. The clinic is near Kurchi market, which was bombed on 26 June 2011, killing 13 civilians and injuring more than 20 others – mostly women and children. The next day, three bombs were reportedly dropped on Alabo in Southern Kordofan’s Nuba Mountains, where civilians had fled to caves and rough terrain in search of shelter from previous air strikes.⁹

As will be discussed, the Sudanese government has also fueled grievous human rights violations including systematic rape of their own people as an act of repression.

Recognizing the challenges of preserving a delicate peace between Sudan and South Sudan, this is a clear-cut scenario that the international community should act in. At this point the regime has gone on long enough that no one could critique an intervention as rash. It’s time for the international community to respond.

**Protecting the Displaced**

Furthermore, if the international community it is unable to prevent or end conflict, then it has an obligation to protect civilians displaced as conflict is ongoing. Again, Sudan yields examples of oppression

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targeted specifically at IDPs carried out not only by the Janjaweed but also by government forces directly. Bombings have been carried out in Sudan’s troubled southern provinces as well as across the border in South Sudan and in Darfur.\(^{10}\) There have also been attacks on IDPs as they endeavour to return to their homes in South Sudan and convoys have been badgered and held up on their journey.\(^{11}\)

Amnesty International reports:

Women make up a disproportionate number of internally displaced people, who have sought refuge in urban centres in the region. There they come under the control of the Janjawid and government forces, and are at continued risk of sexual attacks. They also suffer chronic food shortage because of the Sudan government’s delays in allowing humanitarian access to the region.\(^{12}\)

Where the UN has a presence on the ground, peacekeepers’ response to these attacks has been sluggish,


arriving after they have concluded, and so they continue with impunity.\textsuperscript{13} Louisa Seferis observes:

Given the complexity of displacement, UNAMID’s mandate is realistically difficult to achieve with the hybrid force’s limited capacity, equipment, and number of troops. It is therefore impossible to guarantee all IDPs the level of security necessary to return; circumstances, rather than human security needs, dictate the areas that allow IDPs to return in safety and dignity.\textsuperscript{14}

Despite a clear need for a scaled up presence to protect people living in the camps, the international community’s response has simply been to call yet again on Sudan to meet its obligations under international, humanitarian and human rights law. The Government of Sudan at times hasn’t even gone to the trouble of denying their role in the attacks, leaving requests for information from the UN unanswered.\textsuperscript{15}

**Bolstering Camp Security**

In addition to protecting camps from military attacks, there is a need to reinforce security efforts in and around


\textsuperscript{14} Seferis, “Darfur’s Displacement Dilemma,” 67.

\textsuperscript{15} Kälin, *Promotion And Protection Of All Human Rights*, 11.
the camps themselves through improved policing efforts so that displaced persons—particularly women—can feel secure. Women have often been victims of sexual assault while carrying out day-to-day tasks like the collection of firewood just outside the camp itself. Some inroads have been made in prevention efforts, like the introduction of fuel-efficient stoves so they need to gather wood less often, but progress has been hampered by bureaucracy.

Pantuliano and O'Callaghan point out:

Another attempt to reduce the risk of sexual violence women face has been the provision of fuel-efficient stoves . . . . Although such stoves had been reintroduced with great success elsewhere in Sudan and in Northern Kenya, humanitarian organizations spent over a year debating whether they would be appropriate in Darfur on the grounds that women who supported themselves by selling firewood would lose income—arguably a secondary consideration set against the risk of rape, and one that could have been addressed through complimentary income generation.16

One might argue that the introduction of stoves to combat sexual assault, while a noble effort, misses the broader point that women need to be secure in their environment. As Pantuliano and O'Callaghan go on to mention, there have been efforts to protect women through

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patrols when they go to collect firewood, but these too have been scattershot and inconsistent.\textsuperscript{17}

Rape is only one fear for IDPs in camps however, and the insecurity is not confined to them, as the UN Secretary General has noted, “Kidnapping, ambush, carjacking and violent robberies of staff residences underscore the extremely difficult and volatile conditions in which UNAMID and other actors on the ground are implementing their respective mandates.”\textsuperscript{18} One would legitimately question whether the UN has a strong enough presence in Sudan if they can’t even ensure the security of their own staff.

The advent of Community Safety Committees in IDP camps is a welcome move to bolster the community’s ability to protect and police itself, as is the training of women police officers, but as long as attacks on women are prevalent these efforts are insufficient and need to be bolstered through additional resources, training and personnel.\textsuperscript{19}

\begin{itemize}
\item \textsuperscript{17} Pantuliano, \textit{The ‘Protection Crisis,’} 11.
\item \textsuperscript{19} United Nations Police Division, \textit{Sudan Focus: United Nations Mission in Sudan (UNMIS) introduces Community Policing in Internally Displaced Persons (IDP) camps in Khartoum, United}
\end{itemize}
Insecurity and trafficking in Sudan

The insecurity in camps for IDPs and the failure to make it a priority fuels the incentive for smugglers and traffickers to scale up their efforts when government resolve to pursue them is weak. In the case of Sudan, while the government has created a police unit to address trafficking issues, and staffed it with fifty people, their concern is certainly not in protecting the same people they are persecuting. The reality is that “there appears to be low political will to apprehend, investigate and prosecute smugglers. In this context of virtual impunity, the result is that the economic equation for the smugglers is clear – the risks are very low, while the profits are high.”

Indeed the degree to which traffickers are flourishing in Sudan is demonstrated by the finding of a Canadian human rights commission on the conflict that child slavery was so widespread that the large number of children being sold into slavery meant that the price of a child dropped to 10


20 Global Report on Trafficking in Persons, 89.

pounds sterling from sixty pounds sterling the same year—a tragic example of an excess of supply.\textsuperscript{22}

The fox guarding the henhouse?

Having acknowledged the role that international forces can play in protecting displaced persons, peacekeepers have also been faulted with some of the very acts that they have been brought in to prevent. In every corner of the world peacekeepers have exploited and participated in and increased the demand for victims of trafficking.\textsuperscript{23} Most often, women are used for sexually services:

In many conflict regions, young girls and women are forced into brothels to provide sexual services for the peacekeepers. In refugee camps in conflict regions [. . .] some children are forced to exchange sex with the peacekeepers to obtain food that they need for their daily survival, compounding their psychological trauma.\textsuperscript{24}

Their history being what it is, there is understandable skepticism that peacekeepers alone will be insufficient without extra measures to ensure they behave responsibly. Since these kinds of abuse began to be uncovered, a great deal of progress has been made in preventing this kind of behaviour and in setting up clear


\textsuperscript{23} Shelley, \textit{Human Trafficking: A Global Perspective}, 300.

\textsuperscript{24} Ibid., 65.
and harsh punishments for those who fail to meet the UN’s standard. Since 2003 the UN has implemented a zero-tolerance policy “Special Measures for Protection from Sexual Exploitation and Sexual Abuse” that applies not only to peacekeepers themselves, but also UN policemen, military observers, aid workers and virtually any other person in the UN’s employ. The U.S. Department of Defense and NATO have adopted similar policies in order to address shortcomings in the policy structures in their organizations, however progress in combating the problem has been restricted by inconsistent enforcement and a lack of political will to wipe the practice out.\textsuperscript{25}

While the offenses have not stopped entirely, they have dropped considerably and from 2009-2010 saw a decrease in allegations from 112 to 85.\textsuperscript{26} In addition, by 2010 the UN had more than trebled the number of women serving as peacekeepers in 2005, bringing the number to 3332 in service, or 3.33 per cent of the total UN peacekeeping

\textsuperscript{25} Ibid., 51.

force. Many hope this influence will serve to curb abuses against women. As both NATO and OSCE have forces abroad, but no recorded traces of trafficking, there may be wisdom in joint initiatives until such a time as the UN can get its house in order. While many allegations have proven false, and progress is clearly being made, any exploitation of women by those in authority is unacceptable.

Despite some of the challenges involved in using peacekeepers to bolster security in camps for displaced persons; the international community needs to rely on them for security in refugee camps. With greater efforts to address the current shortcomings and a more dedicated focus on stamping out the abominable behaviour of those who would abuse the power the international community invests in them, peacekeepers, NATO and OSCE forces can work with policing teams to protect the most vulnerable from further abuse.

Making Good on the Promise to Protect

The case of Sudan provides a prime example of how more needs to be done to reinforce security for displaced. The

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27 Ibid., 2.

28 Ibid., 3.
country represents perhaps the gravest example of how the international community is failing displaced persons and demonstrates how pockets of displaced people draw traffickers because they are ripe for exploitation.
CHAPTER 5: CANADA’S MIXED REVIEW ON HUMAN TRAFFICKING

To gauge how the international community is doing in meeting its moral and legal commitments, it is essential to look at efforts to prevent trafficking and support refugees in transit and destination countries and as well as countries afflicted by conflict. This is particularly important since if the UN’s ideals cannot be upheld in countries of greater wealth and stability, it would be difficult for them to be upheld in some of the more war-ravaged countries on earth. Further, for every person trafficked there is a person who seeks to exploit them for labour or sex, and often these people come from more developed countries so it is critical to look at the source.

Anti-trafficking efforts in Canada provide an interesting case study of the extent to which one transit and destination country is struggling to meet its moral and legal obligations, despite having taken a lead on the development of the ‘Responsibility to Protect’ doctrine as well as on peacekeeping and human security efforts around the world. As things currently stand, Canada adheres to the principles but does not have the strategies, funding or legislative frameworks in place to carry out its
responsibilities. Having funded multilateral organizations abroad, it has walked away from the issue of human trafficking prevention and failed to ‘own’ the principles in a meaningful way both domestically and through its foreign aid strategy.

Canada has played a role in fighting human trafficking, but both Liberal and Conservative governments have failed to view the issue with the degree of urgency it warrants. Experts at the U.S. State Department have noted:

Canada is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Canadian women and girls, particularly from aboriginal communities, are found in conditions of commercial sexual exploitation across the country.¹

Canada has begun to address the gaps in its trafficking efforts, but there is still much to be done if the country hopes to close the net on organized crime groups operating within its borders and to contribute in a meaningful way to global efforts to eradicating the practice. Prevention efforts constitute only a small part of Canadian anti-trafficking efforts, so it is worth

looking at its other interventions as well including trafficking legislation, support to refugees, challenges of Canadian coordination and policing and prosecution.

**Overview of Canadian Domestic Efforts**

Canada is getting many things right. Canada was amongst the first of 117 countries that signed on to the Protocol To Prevent,Suppress And Punish Trafficking In Persons mid-December 2000.\(^2\) In the wake of this, federal agencies and departments initiated awareness campaigns in order to help government officials and the public at large to identify signs that they have encountered a victim of trafficking. Key officials including labour inspectors, local police, border security and other key stakeholders now receive training through the Human Trafficking National Control Center. Victims of trafficking are eligible for Temporary Residence Permits and are not forced to testify against their traffickers in court as they are in some countries.\(^3\)

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\(^3\) Canadian Ministry of Justice, An Overview Of Trafficking In Persons And The Government Of Canada's Efforts To Respond To
The Government of Canada has systems in place that indirectly support victims of trafficking. Special attention has been given by the current government to protect victims of all crimes, including trafficked persons, to ensure they have access to support services including health, trauma and immigration services. In addition, the Government of Canada says it has plans to make it easier for those fleeing conflict to escape to safety. Despite already having one of the most liberal refugee policies in the world, committed to increasing the number resettled each year by 20 per cent, with up to 14,500 refugees settled annually by 2013. This will make it easier for those in conflict situations to flee to Canada, and less likely that they resort to more desperate arrangements that could lead to their being trafficked.

**Canada’s Efforts Abroad**

Moreover, Canada has also indirectly made a contribution to trafficking efforts internationally, as the

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second largest donor to the Organization of American States, and also a donor to other key agencies working on trafficking including UNICEF, UNIFEM, UNDP, UNHCR, ILO, UN.GIFT and the IOM.\textsuperscript{5} Most notably, as of February 3, 2010, Canada was the top single country donor to the UNODC with a total contribution of $19.3 million.\textsuperscript{6} In addition the Government of Canada launched the Anti-Crime Capacity Building Program in 2009, which enhances the capacity of government agencies, and other key stakeholders in the Americas to prevent and respond to threats posed by international organized crime.\textsuperscript{7} This $15 million a year program focuses mainly on drug trafficking, but human trafficking and other issues are also being addressed. These are the bulk of Canada’s efforts to stop trafficking abroad.


\textsuperscript{7} Canadian Ministry of Justice, “An Overview of Trafficking in Persons.”
Currently the Canadian International Development Agency has only three active projects totaling $5 million addressing trafficking issues. The biggest—a $4 million project in China—supports training and employment services for young women, creates support networks for young women and children and develops codes of conduct for entrepreneurs. “Furthermore, the project strengthens provincial action plans against trafficking and develops and implement inter-provincial arrangements for safe migration.” A project for $508,305 in Jordan aims to carry out training on juvenile justice, child rights, child sex tourism and child trafficking. A third and final project for $435,391 targets at risk youth in Odessa, Ukraine, with a pilot foster care program to give them greater access to education and employment.

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important work that is being done in these countries it would seem that CIDA’s approach to trafficking is both fragmented and scattershot. One might question whether efforts to combat trafficking would have greater impact if they were more concentrated and working in more vulnerable nations instead of middle-income countries. CIDA would benefit from a strategy of its own to direct financing of trafficking initiatives and give very limited resources greater impact.

As we will see in the coming pages, part of what is holding the country back from making a greater contribution globally is that the need remains for Canadians to get their own house in order.

Amending the Criminal Code

Progress has been slow in adding in critical trafficking legislation under Canada’s criminal code. Though it hasn’t been a priority for the Harper Government, Conservative MP Joy Smith has made human trafficking the hallmark of her career as an MP and her efforts are bearing fruit through private members bills. On June 29, 2010 her bill to introduce mandatory minimum sentences for people convicted of trafficking minors in Canada was passed.
Almost a decade after signing on to the trafficking protocol, the Canadian government had finally amended the Criminal Code and made good on their international commitment to make child trafficking an offence in Canada. The offence carries a mandatory minimum of five years imprisonment and closes a bizarre gap in the Canadian legal system.\textsuperscript{11}

More recently Ms. Smith introduced a bill that would mean Canadians accused of trafficking abroad could be prosecuted in Canada for the offence. The MP for Kildonan –St. Paul, Manitoba has just seen her bill unanimously endorsed by the House of Commons justice committee in March 2012 and it will go to the House of Commons for a third and final reading before going on to the Canadian senate.\textsuperscript{12}

This bill is important as it holds Canadians responsible for their misdeeds abroad and holds them to the same standard there that they would face here. Since 1997, 136 Canadians have sought consular assistance abroad after

\textsuperscript{11} Canadian Ministry of Justice, “An Overview of Trafficking in Persons.”

having been arrested for sex tourism. Given that 73 of those were arrested in the last three years this may be an indicator that either the practice is growing, or that other countries are getting better at policing it. These figures don’t include those who didn’t ask for help or those arrested in countries like Cambodia that do not have a Canadian embassy. Data from Foreign Affairs suggests that Canadian’s favoured sex tourism destinations include Argentina, Australia, Dominican Republic, Germany, Haiti, Mali, Mexico, the Philippines, South Korea and Thailand, though many calls for consular help came from cities across the United States.

Within Canada, as of June 2011 there had been nine convictions for trafficking under the Canadian Criminal Code and a further fifty cases before the courts. Of all of the victims, 12 per cent were children and all but five involve allegations of trafficking for the purposes of sexual exploitation. Progress has been made in reforming

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the Criminal code, but other issues remain that demand the attention of legislators. Canada has a role to play in deterring would-be johns and traffickers from exploiting women in Canada and abroad and cannot be allowed to be viewed as a haven for either group.

Refugees, Asylum and Canadian Law

As has been noted, one factor that drives people to submit themselves to being trafficked is that they are unable to migrate through legitimate means. While some progress has been made to allow more refugees into Canada, the current refugee resettlement process is both ad hoc and combative. A recent study—the largest of its kind—found major differences in how refugee appeals were handled depending on which judge they saw. After the Immigration and Refugee Board has made its decision about whether or not a refugee could stay in Canada, refugees are able to appeal an unfavourable decision to a Federal Court judge if they will hear the case. The study found that twenty judges were more than ten times more likely to hear refugees out than a recent Conservative appointee. As well, more than a third of judges departed from the average by 50 per cent or
It is acceptable for there to be some disparities within the Canadian legal system and this is bound to happen when there are appointees made by political leaders. That said, their plight being as challenging as it is, refugees deserve a consistent and legitimate avenue for appeal. The stakes are high enough that Canada should strive towards a more uniform approach to handling refugees, and their fate should not be left to the luck of the draw.

Meanwhile the Government of Canada is currently laying plans to make it more difficult to enter to the country as a refugee. The stated intent of the Protecting Canada’s Immigration System Act introduced by Minister Kent in February 2012 is to streamline the process to get refugees processed faster so their lives can return to normalcy, while at the same time closing loopholes that allow people to abuse the system. Though the bills stated intent is to

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help refugees, the Justice for Refugees and Immigrants Coalition (comprised of Amnesty International, the Canadian Association of Refugee Lawyers, the Canadian Civil Liberties Association, and the Canadian Council for Refugees) recently came out against Bill C-31, because the ‘streamlining’ may mean that refugees had insufficient time to build their case for asylum. Further, it would concentrate an overwhelming amount of power in the hands of the Minister himself, and allow the process to become politically tainted. More importantly it would allow the Minister—who may not have any experience in this area—to reject applications for asylum out of hand, rather than giving them the due process they reserve. He would, for example, be able to decide, without consultation, that a particular country was ‘safe’, meaning that any applications for asylum would be rejected outright. He would also gain the power to deport refugees at any point in the five years between when they land and when they are eligible to apply for permanent resident status. Finally, this bill would mean some refugees had a six to eight year

wait before they could reunite with their families and that for five years they would be unable to leave Canada at all. All of these changes would harm the refugee settlement system in Canada and concentrate too much power in the hands of one individual with little experience on the issues. Of additional concern is what a bill like this can mean for human trafficking. Studies indicate that in the absence of legitimate means to gain access to freedom, trafficking emerges as an industry as people seek out alternative means of migration.\textsuperscript{18}

This reworking of the system for refugees comes at the same time as Prime Minister Stephen Harper visited Thailand to announce a $12 million initiative to counter human smuggling efforts in South East Asia.\textsuperscript{19} The plan will aim to stop ‘irregular migrants’ from Thailand—a key transit country in the region—from ever making it to Canada’s shores, and strand them in a country that never signed on


to the convention on refugees and views them as illegal immigrants. While targeting smugglers, who often end up trafficking their ‘clients’, is a worthy cause, those being smuggled often have legitimate claims for refugee status in their destination countries. The most recent example of this is the 492 Tamils who fled Sri Lanka and arrived in Vancouver in August 2010. Of these, only 44 have had their status ruled on, and the remainder continue to wait to know if they will be allowed to remain.\(^2\) In the absence of legitimate options and unable to return to their homes, they will be forced to take greater risks in search of freedom.

Of further concern is the Canadian government’s failing to consistently provide asylum to victims of trafficking as is recommended under the protocol.\(^1\) Canada has extended its interpretation of the Convention on Refugees to include asylum as an option for trafficked


women, but the application of this policy is often left to
police officers who intercept trafficking victims and lack
clear directives on this issue. The result is that
trafficking victims are often viewed as illegal immigrants
and can sometimes end up charged as prostitutes.²²

There are some glaring shortcomings in the Government
of Canada’s current approach that do not take into account
the varied and tremendously complex circumstances some
refugees will be coming from. The dangerous upshot of
recent developments is that there is a serious risk of
people with legitimate fears of persecution in their home
states being sent back to face their tormentors by the
Canadian government.

**Canadian Coordination on Trafficking Issues**

A key challenge facing Canadian trafficking efforts is
a lack of a strong coordinating focal point on both
international and domestic efforts. In an effort to address
this issue, the Canadian Government created an
Interdepartmental Working Group on Trafficking in Persons
(IWGTP) in 2002. Co-chaired by the Ministry of Justice and
the Department of Foreign Affairs, the working group

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incorporates representatives from 16 government departments and agencies with a mandate to create a ‘National Plan of Action’ to address human trafficking.\textsuperscript{23} By 2005 the group had created a Federal Strategy on Trafficking in Persons, but in the last seven years it has yet to be formally adopted, or shared publicly, so Canada’s efforts remain rudderless.\textsuperscript{24} The formation of the Working Group is welcome, but despite being co-chaired by DFA they seemingly have no international scope and domestically have focused largely on some fairly limited awareness activities.\textsuperscript{25} Having been around a decade with few results, it is fair to say a renewed effort is needed.

Another possible source of leadership and coordination on trafficking on either the international or domestic fronts would be the Royal Canadian Mounted Police’s Human Trafficking National Coordination Centre.\textsuperscript{26} However,

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\textsuperscript{24} Benjamin Perrin, \textit{Invisible Chains: Canada’s Underground World of Human Trafficking} (Toronto: Penguin, 2010), 218.
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\textsuperscript{26} The RCMP would be the equivalent of Canada’s FBI.
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currently the HTNCC also focuses largely on awareness and training campaigns though it has done some work in developing tools to facilitate human trafficking investigations.\textsuperscript{27} Further, it is terribly understaffed, with only 5 officers and two analysts.\textsuperscript{28} As a result, beyond awareness activities they have essentially no role as a policing force and serve only to develop policy and advise on trafficking issues.

Clearly awareness is important in trafficking prevention and educating both officers of the law and the broader community as to what they should look for is essential. That said, solely focusing on promotional campaigns is limiting the impact of both the IWGTP and the HTNCC. Awareness cannot be allowed to become the sole focus of Canada’s anti-trafficking efforts at the expense of broader strategic, intelligence, operational, and other needs. These groups need to be providing a strategic framework and guidance to relevant agencies and other levels of government. Countries as varied as Congo, Cyprus

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\textsuperscript{28} Benjamin Perrin, \textit{Invisible Chains}, 138.
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and Azerbaijan all have strategies in place to stop trafficking. As responsible global citizens, it is time Canada joined them.  

In the absence of a national strategy, the efforts of lower levels of government endeavouring to combat trafficking have been equally scattershot and uncoordinated from province to province. The US State Department points out:

There were no reported formal systems for referring trafficking victims to care institutions; rather, officials relied on ad hoc practices. Provinces and territories had primary responsibility for enforcing labor standards, but NGOs and the media reported that the provincial and territorial governments often lacked adequate resources and personnel. . .

Examples of anti-trafficking efforts at the provincial level include British Colombia’s Office to Combat Trafficking in Persons which was established in 2007 and funded in part by the federal government. OCTIP works to prevent trafficking through awareness campaigns and provides support to victims of trafficking. In Ontario—a major destination for trafficked persons in Canada—the

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30 2011 Trafficking in Persons Report.
government announced in 2011 that it will spend $2 million over three years on policing, prevention, and support services like help lines and community outreach efforts.\textsuperscript{31}

The initiative is a welcome step in the right direction, but Ontario is a massive province that is bigger than many countries, and the budget to be spread across these three areas will be spread quite thin.

These and other fledgling provincial efforts are still in early days, and owing again to the absence of a Canadian strategy, have yet to demonstrate an integrated approach that can prevent overlap and minimize gaps. Indeed the RCMP would seem to agree, as its recent report on trafficking concluded as follows:

Despite some progressive results, significant intelligence gaps and resource constraints are still affecting law enforcements response to human trafficking. In order to overcome these challenges and address deficiencies, relevant agencies and stakeholders need to realign their strategic priorities to support operational efforts.\textsuperscript{32}


\textsuperscript{32} Human Trafficking in Canada: A Threat Assessment, 45.
Policing and Prosecution efforts

A more aggressive approach is needed for Canada to get its house in order not only domestically for the protection of its own citizens, but in order to better meet the country’s obligations abroad. Canadian efforts to prosecute offenders under the Criminal Code have been lackluster. As Canadian anti-trafficking luminary Benjamin Perrin points out, “The lack of specialized police officers to gather criminal intelligence and proactively investigate human trafficking offences represents one of the largest gaps in Canada’s prosecution of traffickers.” Perrin elaborates to explain other shortcomings in Canada’s enforcement efforts to eradicate trafficking, adding that many officers are not yet aware that it is an offence in the criminal code, and that many prosecutors will allow the accused to plea down to lesser offences that are easier to convict on.

Finally, Canadian efforts to fight trafficking may continue to flounder because the government lacks a central trafficking database to track the success of Canadian initiatives and the scale of the problem. Individual departments and agencies have pockets of intelligence

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31 Perrin, Invisible Chains, 141.

34 Ibid., 131.
available to their staff but this knowledge is not adequately shared across the government. Embarrassingly, when the UNODC contacted Canada for information for its Global Report on Trafficking in Persons not a single agency was able to generate any reliable official statistics. Canada’s inability to provide accurate figures then hampers global efforts. “We have a big picture, but it is impressionistic and lacks depth. We fear the problem is getting worse, but we cannot prove it for lack of data, and many governments are obstructing,” said Antonio Maria Costa, Executive Director of UNODC. In a curiously bureaucratic fashion, Statistics Canada and the Canadian Center for Justice Statistics recognized this shortcoming, and rather than creating such a database, commissioned a report in 2010 which then indeed confirmed the absence of appropriate data. This report has informed some

35 Ibid., 120.


37 Lucie Ogrodnik, Towards The Development Of A National Data Collection Framework To Measure Trafficking In Persons (Ottawa: Ministry of Industry, 2010).
adjustments on surveys in government departments, but Canada still lacks a database in 2012.

Current efforts tend to be haphazard and would gain considerably from the leadership of a single focal point. Approaches and resources vary from province to province. Without broader national guidelines and standards there can be no certainty that every case is treated with the sensitivity it deserves and victims of trafficking are at risk of falling through the cracks.

Moreover, rather than crafting specific support structures for victims in Canada, the government relies heavily on the social institutions already in operation domestically. Trafficking victims have very specific needs as a result of the traumatic events they have been through and the complex migration issues they may need to navigate—often in a language they may not fully understand. In the same way, Canada’s international anti-trafficking policy has by and large been to chip in what is obligated to multilateral organizations and to let them handle it, having already done their part.

Where Canadian laws related to trafficking are concerned an audit of Canadian Criminal Code should be carried out to ascertain the degree to which we are meeting
our commitments under the various relevant agreements. Further a review of proposed refugee legislation should be carried out through the lens of the affect it may have on trafficking. With many of the necessary laws finally in place, Canada needs to fund police forces to punish and deter those who would either engage in trafficking or exploit its victims. As these efforts are scaled up it is essential to also put a data collection system in place to monitor progress.

At the urging of Canada and other nations, UN.GIFT and other initiatives were set up to tackle this issue based on the principle that: “Human trafficking is a crime of such magnitude and atrocity that it cannot be dealt with successfully by any government alone. This global problem requires a global, multi-stakeholder strategy that builds on national efforts throughout the world.”38 Having spurred the inception of these institutions, Canada and other donor’s role is not complete—they now must be nourished with our ideals and insights, and integrated into policy-making efforts. Greater attention must be paid to the

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obligations Canada has made through the UN General Assembly, and Canada must play a greater part in contributing to the mosaic of its institutions.
CHAPTER 6: LIVING OUR IDEALS—THE MORAL URGENCY TO FULFILL OUR PROMISES TO THE WORLD’S MOST VULNERABLE

Having looked at the pledges made to some of the world’s most vulnerable people, and the reality of the conditions in which they live, it becomes apparent that the global community is failing to meet their moral and legal obligations on the grandest of scales. For the 34 million displaced and the 2.4 million trafficked, it means they do not get a chance to live the life they deserve and boundless potential is lost. Those displaced by conflict are hit the hardest by these shortcomings and efforts must be scaled up in order to have a greater impact on the current state of affairs, particularly for women and children.

The ‘Responsibility to Protect’ is most often invoked in the context of preventing genocide by a government against their own people. Yet as we’ve seen, the international community has pledged to uphold a number of principles, including freedom from torture and gender based violence and yet efforts to do so seem to be inconsistent. Abusive regimes cannot be left to steal the resources of their nation and funnel them into wars of attrition against innocent civilians. These abuses foster the desperation that enables further grievous human rights violations to
take place. When abuses in the manner that the world has witnessed in Sudan are allowed to continue, we fail humanity.

The international community could start by increasing troop deployments to conflict regions to act as a buffer between innocent civilians and those that would oppress them. As we have seen in Sudan, the UN and African Union have woefully insufficient resources and cannot protect their own staff, let alone respond to the greatest displacement crisis on earth. Deploying UN and AU troops alongside NATO and OSCE troops with a mandate to engage hostile forces would not only act as a deterrent to further attacks, but also prevent some of the negative aspects of peacekeeping from occurring. The world needs a standing rapid response force to deploy into these kinds of conflict situations. If the force is truly international—that is if the burden is not borne by America alone—then those who might criticize an altruistic effort cannot write it off as a colonial occupation.

Barring a rapid response force, the international community should at a minimum put enough soldiers and police officers on the ground to stop the ravaging of innocent civilians. A UN Police taskforce with operational
capacity could bring knowledge from fighting trafficking around the world to support local governments in carrying out sting operations on traffickers. This may particularly be helpful in countries in conflict, where the international community still has the responsibility to protect citizens displaced internally and state governments are not intervening. Putting forces on the ground can stop atrocities and help to prevent the tragedy of trafficking of displaced persons.

The ‘Responsibility to Protect’ was created as a thorough, thought out framework that would ease the wringing of hands, the obfuscation and equivocation that so often surround decisions to go to war. In the case of Sudan at least, it is clearly time it was invoked.

As Larry May illustrates, every global citizen currently bears some degree of responsibility for trafficking. To be aware of these most desperate of circumstances and fail to act to prevent further suffering is morally reprehensible. Everyone has the capacity to affect change in some way, and so helping in whatever way we can is what our humanity demands of us. However we have also vested power and treasure in the hands of our elected national officials and in the officials of international
organizations and they have even greater responsibility to use their resources to the fullest stamp out practices like trafficking from occurring.

Having laid out in conventions and protocols what needs to be done in order to stop trafficking from occurring, there is a moral burden on international actors to be more forceful in meeting our commitments. National legislatures must create legal frameworks that punish offenders and protect trafficking victims, including the offer of asylum. Efforts to increase the number of traffickers prosecuted must be scaled up.

The world’s leaders have a responsibility to ensure UN agencies are well resourced and to create national response programs that are complementary. In a democratic society, institutions are set up and adjusted over time, to support and adhere to our ideals. These institutions are a reflection of our own values and priorities. But they are not without needs, and neglecting them—as we saw was the case with UNHCR—is equally a reflection of our values and priorities. Funding 58 per cent of UNHCR’s mandate is a bit like saying “we believe in 58 per cent of those conventions we signed.” Having vested moral responsibility in these
organizations our global aid architecture must be given the resources it needs to function.

Finally, the international anti-trafficking bureaucracy must strive to be the best version of itself. Stalling and creating stand-offs over what are often badly needed reform efforts risks our institutions not only failing to function at the optimal level, but also wastes resources that are badly needed on the ground. UN agencies must seek active and open-minded collaboration on areas like trafficking where so many play a key role.

Moreover, UN organizations must prioritize trafficking as an issue to tackle. It took a decade from the introduction of the Palermo protocol in 2000 for the UN to launch its global plan of action against human trafficking. There are too many who wait for this scourge to be addressed to take the leisure of so much time. While it is covered by as many as eighteen UN agencies, these often have sprawling mandates with many priorities, amongst which trafficking ranks at the bottom. The creation of the Inter-Agency Coordination Group against Trafficking in Persons may prove to be sufficient to stop trafficking efforts around the world, but at first glance it appears to be a band-aid solution to an enduring problem. The UN needs to
seriously consider whether the creation of ICAT is just an added layer of bureaucracy and whether a specialized agency with trafficking as a central mandate should be set up to address trafficking issues.

Similarly national bureaucracies must continue to move forward on meeting obligations under the conventions and their protocols and cannot be allowed to become stagnant as it has in the Canadian context. Critical data collection tools must be quickly put in place so that trends can be monitored and policies and programs adjusted. Multilateral and bilateral projects, policies and programs must be dovetailed to make sure victims do not fall through the cracks.

There is a moral urgency to our success. Doing less than one’s all to live up to the tasks bestowed upon these venerable organizations allows evils like human trafficking to flourish, which is an evil in itself.

In these respects, more must be done to protect displaced women and children and meet the international community’s commitments to fight trafficking. Shrinking from this task would be unconscionable and our humanity demands better of us.
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