



UNITED NATIONS
Office on Drugs and Crime



Toolkit to Combat Trafficking in Persons

**GLOBAL PROGRAMME
AGAINST TRAFFICKING IN HUMAN BEINGS**

UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

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abbreviations and acronyms

ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Meeting
ECOWAS	Economic Community of West African States
Europol	European Police Office
Interpol	International Criminal Police Organization
IOM	International Organization for Migration
OSCE	Organization for Security and Cooperation in Europe
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization

introduction

Human trafficking takes many different forms. It is dynamic and adaptable and, like many other forms of criminal activity, it is constantly changing in order to defeat efforts by law enforcement to prevent it. The responses to the problems are also rapidly evolving, in particular since an internationally agreed upon definition was adopted by the United Nations in November 2000. We learn daily about new ways of preventing, investigating and controlling the crime of trafficking and about more effective ways of protecting and assisting the victims of this crime. International cooperation, which is so crucial to the success of most interventions against human trafficking, is gaining a new momentum and new cooperation mechanisms are being developed.

The present Toolkit was prepared because there is still much to be learned about what works best to prevent and combat human trafficking under various circumstances. It presents a selection of conceptual, legislative and organizational tools in use in different parts of the world.

The Toolkit is based on the premise that the problem of trafficking in persons, whether at the national or local level, can only be addressed effectively on the basis of comprehensive strategies that are based on human rights and that take into account the transnational nature of the problem, the many associated criminal activities, the frequent involvement of organized criminal groups and the profound pain, fear and damage suffered by the victims.

Although the Toolkit offers a few examples of comprehensive national strategies, most of the tools that it offers focus on one specific aspect of the comprehensive response required. Individual tools may be used to develop comprehensive strategies, or to augment or strengthen some of the essential components of existing ones. Many of these tools will need to be adapted to national or local circumstances. None of the tools, by itself, is sufficient to provide an effective response to the problem.

Purpose of the Toolkit

Generally speaking, the Toolkit pursues the same purposes as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,¹ which will hereinafter be referred to as the “Trafficking in

¹The Trafficking in Persons Protocol was adopted by the General Assembly in its resolution 55/25 of 15 November 2000. It entered into force on 25 December 2003. The Protocol’s ratification status can be consulted at: http://www.unodc.org/unodc/en/crime_cicp_signatures_trafficking.html

Aims of the Toolkit

- To increase awareness and to help policymakers in national Governments, criminal justice systems, law enforcement agencies, non-governmental organizations and intergovernmental organizations to understand and respond effectively to trafficking in persons
- To suggest ways in which national governmental and other relevant agencies and organizations can develop various elements of a comprehensive strategy to prevent and address the problem of trafficking in persons
- To suggest ways in which States and various relevant governmental and non-governmental organizations can become more able to identify victims of trafficking and offer effective protection and assistance
- To suggest ways in which States, law enforcement agencies and various other governmental and non-governmental organizations can work in partnership with each other to combat trafficking in persons and to develop effective measures against it

Persons Protocol” (General Assembly resolution 55/25, annex II) and those of the United Nations Convention against Transnational Organized Crime,² hereinafter the “Organized Crime Convention” (Assembly resolution 55/25, annex I). These are to prevent and combat trafficking in persons; to protect and assist victims; and to promote international cooperation.

Knowledge and practical experience in these areas is gradually building up around the world. The purpose of this Toolkit is to facilitate the sharing of this knowledge and information among policymakers, law enforcement officials, judges and prosecutors, victim service providers and concerned members of civil society.

The tools

The Toolkit is structured in such a way that different sections may be consulted directly by users who have a special interest in one particular aspect of the problem. An overview of all the tools can also be found in annex I.

The tools are presented in 10 chapters, each relating to one major type of activity that should be undertaken as part of any comprehensive strategy to address trafficking in persons. Each of the 10 chapters thus addresses the need to take some specific action to combat the problem. They deal respectively with the need:

1. To take into account relevant international law and the emerging international legal framework

²The Organized Crime Convention was adopted by the General Assembly in its resolution 55/25 of 15 November 2000 and entered into force on 29 September 2003. The Convention's ratification status can be consulted at: http://www.unodc.org/unodc/en/crime_cicp_signatures_convention.html

2. To assess the problem of human trafficking as it presents itself in a specific context and to develop an effective strategy and capacity for development of strategies
3. To proceed with the necessary law reform
4. To remove obstacles to international criminal justice cooperation
5. To develop and implement effective law enforcement and judicial procedures and practices
6. To set in place measures to facilitate the identification of victims of trafficking
7. To address the question of the immigration status of victims of trafficking and adopt measures to facilitate their repatriation and resettlement
8. To offer effective protection and assistance to victims
9. To carry out effective public education and other measures to prevent human trafficking
10. To put in place the necessary monitoring and evaluation mechanisms to measure the progress achieved

Definition of trafficking

The international community has, in the Trafficking in Persons Protocol, agreed upon a definition of trafficking in persons.

Article 3, subparagraph (a), of the Trafficking in Persons Protocol defines the crime as follows:

“Trafficking in persons” shall mean 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.

The Protocol defines trafficking in persons for the purpose of determining the scope of application of the Protocol itself and that of the Organized Crime Convention to trafficking activities, as well as to provide a common basis for the formulation of domestic criminal offences, criminal procedures, support and assistance measures for victims and other measures. The definition is broken down into three elements: acts; the means used to commit those acts; and purposes or goals (forms of exploitation).

Definition of human trafficking

Trafficking in persons is:

- The action of recruitment, transportation, transfer, harbouring, or receipt of persons
- By means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim
- For the purposes of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs

The Protocol does not define exploitation, but it includes a non-exhaustive list of forms of exploitation. Sexual exploitation is not defined in the Protocol or any other international legal document. Other forms of exploitation listed in the definition, however, have found some definition in other international legal instruments.

By naming the conditions of forced labour, servitude, slavery-like practices and slavery, the Trafficking in Persons Protocol avoids the tendency to restrict the definition of human trafficking to cases involving sexual services, and instead recognizes all forms of trafficking, including trafficking into different forms of forced labour, for the purpose of removal of organs and, as well, recognizes that all persons are potential victims of trafficking, even if women and children are especially vulnerable to this form of victimization.

Prevention, investigation and prosecution

The Trafficking in Persons Protocol applies to the “prevention, investigation and prosecution” of Protocol offences, but only where these are “transnational in nature” and involve an “organized criminal group” (as defined in the Organized Crime Convention).³ It should be noted that the obligation on States parties is to criminalize trafficking in their national legislation, irrespective of whether it is transnational in nature or involves an organized criminal group.⁴ The presence of these elements is a test for applying the Convention and Protocol between States parties, but neither of them should be an element that must be proved in any domestic prosecution.

The Organized Crime Convention further encourages the use of additional measures that are “more strict or severe” against all forms of transnational organized

³“Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit (Organized Crime Convention, art. 2, subpara. (a)).

⁴See article 34, paragraph 2, of the Organized Crime Convention.

crime, including trafficking in persons. Apart from specifically criminalizing the offence of trafficking in persons, many States are also creating additional criminal offences to deal specifically with conduct that forms only part of the human trafficking offence itself, such as the making of “debt-bondage” contracts or forced or coercive prostitution operations.

Smuggling of migrants

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, hereinafter the “Migrants Protocol” (General Assembly resolution 55/25, annex III) was adopted in order “to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties, while protecting the rights of smuggled migrants” (art. 2).⁵

The Migrants Protocol defines “smuggling” of migrants as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (art. 3, subpara. (a)). It contains the following elements:

- the procurement of illegal entry
- into a State of which the person is not a national or a permanent resident
- to obtain direct financial or other material benefit.

In addition to criminalizing smuggling per se, the Migrants Protocol also requires States parties to criminalize additional conduct often associated with smuggling. They are required to criminalize the “producing” and the “procuring, providing or possessing” of a “fraudulent travel or identity document”.

States parties must also criminalize the offence of “enabling illegal residence”. The intention in establishing this offence is to include cases where the entry of migrants is through legal means, such as visitors’ permits or visas, but the stay is through resorting to illegal means. These illegal means enable them to remain for reasons other than those used for entry or beyond the length of time covered by their permits or authorizations to enter.

Distinction between trafficking in persons and smuggling of migrants

Smuggling of migrants and human trafficking both involve moving human beings for profit. However, in the case of human trafficking, two additional elements beyond smuggling must be present: there must be some improper form of recruit-

⁵The Migrants Protocol was adopted by the General Assembly in its resolution 55/25 of 15 November 2000. It entered into force on 28 January 2004. The Protocol’s ratification status can be consulted at: http://www.unodc.org/unodc/en/crime_cicp_signatures_migrants.html

ment, such as coercion, deception or some abuse of authority; and the activity must have been undertaken for some exploitive purpose, although that purpose need not necessarily have been fulfilled.

In human trafficking, the major source of revenue for offenders and the economic driving force behind the offence are the proceeds derived from the exploitation of victims in prostitution, forced labour or in other ways. In smuggling, the smuggling fee paid by the illegal migrant is the major source of revenue and there usually is no ongoing relationship between the offender and the migrant once the latter has arrived at the destination. The other major difference between smuggling and trafficking is that smuggling is always transnational in nature, but trafficking may or may not be.⁶

Trafficking in persons and smuggling of migrants are distinct crimes, but they represent overlapping crime problems. Their legal definitions contain common elements. Actual cases may involve elements of both offences or they may shift from one to the other. Many victims of human trafficking begin their journey by consenting to be smuggled from one State to another. Smuggled migrants may later be deceived or coerced into exploitive situations and thus become victims of human trafficking. In fact, it may often be difficult for law enforcement officials and victim service providers to determine whether a particular case is one of smuggling or trafficking. In practice, law enforcement officials will sometimes use the initially gathered evidence to launch a smuggling investigation, which will later focus on human trafficking as additional evidence comes to light. In such cases, law enforcement officials will frequently have to rely on existing measures against the smuggling of migrants until the additional elements of a human trafficking offence can be established.

Protection and assistance services are required to be offered to victims of human trafficking but are not typically available to migrants who have been smuggled into a State. Thus, there is sometimes a concern that authorities may treat cases of human trafficking as cases of smuggling of migrants in order to minimize their responsibility to offer victim protection and support. This concern is heightened by the fact that the status of victims of trafficking is often determined as such only by the designation or characterization of a case by the prosecutors or by law enforcement officials. A process rarely exists whereby victims of trafficking or others acting on their behalf can seek to have their status determined in order to ensure their access to the support and assistance they require.

For all these reasons, it is important to ensure that States become parties to both Protocols, whenever possible.

⁶The language of the definition and criminalization requirements of the Migrants Protocol (art. 3, subpara. (a), and art. 6) makes it clear that smuggling should only be criminalized where it involves the illegal entry of migrants into a State party, which requires an element of transnationality. No such requirement occurs in the provisions that deal with trafficking in persons; this must be criminalized regardless of whether victims are trafficked within a country or from one country to another.

So what are the differences between trafficking and smuggling?

There are three important differences:

Consent

The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.

Exploitation

Smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim. From a practical standpoint, victims of trafficking also tend to be affected more severely and to be in greater need of protection from revictimization and other forms of further abuse than are smuggled migrants.

Transnationality

Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another State or only moved from one place to another within the same State.

Consent of victims

One of the key issues in developing a response to trafficking has been the issue of the need to consider whether the victim consented to being smuggled or trafficked. The Trafficking in Persons Protocol also establishes that, for the purpose of that definition, consent of the victim is irrelevant where the use of illicit means is established.

In doing so, the Protocol recognizes that a victim's exercise of free will is often limited by means of force, deception or the abuse of power. It respects the ability of adult persons to make self-determined decisions about their lives, specifically regarding labour and migration choices. However, the Trafficking in Persons Protocol excludes a consent-based defence in cases where the use of improper means of obtaining consent is established. A child cannot consent to being trafficked; the Protocol excludes any possibility of consent from a victim under the age of 18.

Some of these points are illustrated by the following examples:⁷

⁷Trafficking occurs globally, in both the developed and developing worlds. These three examples merely illustrate a worldwide phenomenon.

Example 1

Sara was not able to find a job when she finished her education at the age of 20. She was unemployed for a year and lived with her parents in an Eastern European country. The situation was very difficult for them all. Many people she knew had gone abroad and earned money to support themselves and their families. Sara wanted to do the same. A woman she knew put her in touch with a man who said he could help her obtain a job as a waitress in a South-Eastern European country. The man offered his help in obtaining a passport and a ticket and said that she could reimburse him later. Sara told all her friends and family she was leaving and they were all happy for her. Some of Sara's friends wanted to leave with her. When Sara arrived in the country of destination, she was handed over to a group of men who told her she owed them money and that she had to pay off the debts by selling sex.

Sara's story is common in that she consented to be taken to Turkey for a legitimate job. In many trafficking cases the false offer includes the promise of a valid work and residency permit. Sometimes the victim agrees to being smuggled into a State illegally in order to find work. The victims clearly do not consent to the subsequent exploitation. It is not possible under international law to consent to torture and abuse.

Example 2

Sonia began working as a prostitute in a Latin American country when she was evicted from home at the age of 14. She tried to get other jobs as well, but always returned to prostitution. When she was 17, a taxi driver invited her to go to Europe. The taxi driver said she was very pretty and would make a fortune if she moved to Europe and worked there. With her looks, he said, she could probably work as a model, and he would take care of all the arrangements. Sonia was very tempted but still afraid. After a while she accepted his offer. It took him a month to arrange everything for her. Three other girls went with her. When they got to Europe, another taxi driver took their passports and said they needed to trust him since the city was very dangerous. They had to work everyday from 6 p.m. to 6 a.m. as prostitutes and were told that they would not get their passports back before the house manager was paid back for the travel arrangements. Sonia says she expected prostitution but had never imagined she would be a prisoner, threatened day and night.

In this example, the fact that the victim knew in advance that she was going to engage in prostitution does not mitigate the criminality of the trafficker—the means of trafficking are utilized and the element of exploitation remains. The gravity of it is not diminished because the victim was aware of the nature of the work but not of the working conditions.

It is not just trafficking of women into prostitution that leads from consent to enslavement. There are also cases of men recruited to work in construction who consented to what they believed were legitimate temporary jobs only to find themselves locked in at the worksite, paid nothing and physically abused.

The consent of the victim

In many trafficking cases, there is initial consent or cooperation between victims and traffickers followed later by coercive, abusive or exploitive circumstances. Any initial consent is effectively later nullified by initial deception, later coercion, or an abuse of authority at some point in the process in accordance with article 3, subparagraph (b), of the Trafficking in Persons Protocol.

This raises practical problems in cases where accused traffickers raise evidence of victim consent as a criminal defence.

Subparagraph (b) of the definition clarifies that consent becomes irrelevant whenever any of the “means” of trafficking has been used.

Consent of the victim can still be a defence in domestic law, but as soon as means such as threats, coercion or the use of force or abuse of authority are established, consent becomes irrelevant and consent-based defences cannot be raised. In most criminal justice systems, the effect would be that prosecutors would raise evidence of improper means and defence counsel would tender evidence of victim consent, leaving the court to assess first the validity of the prosecution evidence and then the validity of the defence.

Under the Trafficking in Persons Protocol, it is possible that a valid consent, completely free of any improper means, might be obtained. The definition of trafficking and the modus operandi of most traffickers make this a relatively unlikely scenario however, and investigators and prosecutors should carefully consider all of the evidence and elements of any case before reaching this conclusion.

Where a person is fully informed of, and consents to, a course of conduct that might otherwise constitute exploitation and trafficking under the Protocol, no offence of trafficking would occur. However, trafficking does occur if consent at any stage of the process is nullified or vitiated by the application of improper means by traffickers. Effectively, the consent of the victim at one stage of the process cannot be taken as the consent at all stages of the process, and without consent at every stage a trafficking offence has taken place.

The nature of the activity consented to is less important than the question of whether valid consent is established at the outset and has been maintained at all subsequent stages of the process. If such consent does not exist or is nullified at any stage, it is trafficking. If the consent is maintained, it is not trafficking, even if the subject has consented to engage in actions that are illegal in the destination State, such as prostitution or drug trafficking.

A further issue in many cases will be the legal question of whether a particular victim had the capacity to consent to recruitment or subsequent treatment in national law. Under article 3, subparagraph (c), of the Trafficking in Persons Protocol, consent and the presence or absence of improper means of trafficking become completely irrelevant if the victim is a child under 18 years of age, and under the national laws of many States parties, the capacity to consent, especially to sexual activity, may be even further restricted.

Example 3

Police rescued 116 male children and young adults from slave camps inside an African country. The rescued victims were only some of those enslaved in child-slave camps discovered in the western states of this country. The victims, all of a neighbouring country nationality, were camped in the bush without any shelter and forced to sleep outside on the bare ground. They were used to crush granite and stones at quarry sites in the camps. The children's parents had allegedly released them to labour traffickers, many in the hope of a better future for their children. Some of the children had been working in the quarries for up to four years.

In this example, it is important to note that a child under the age of 18 cannot give his or her consent even if none of the means of trafficking are used. In other words, even if a child is not threatened, no force is used against him or her, or he or she is not coerced, abducted or deceived, the child cannot give consent to the act of trafficking for the purpose of exploitation. Moreover, even the custodian of the child cannot give consent to the trafficking act for the purpose of exploitation.

This is why the young boys, who were rescued from the West African granite quarries and repatriated, were victims of human trafficking even if they gave their consent to working in the quarry and they were not deceived as to the working conditions. The boys had been recruited, transported (the act of trafficking) to the granite quarries and exploited for labour purposes (the purpose of trafficking). Even if none of the means were utilized, the boys, solely because of their age, were victims of trafficking.

Root causes of trafficking in persons

The root causes of trafficking are various and often differ from one country to another. In search of a better life elsewhere, disadvantaged people are often drawn into the control of criminals who will take advantage of their situation and exploit them. Economic hardship, conflict, crime and social violence, natural disasters and other such pressures create a desperate situation for millions of people and make them vulnerable to various forms of exploitation and enslavement. In many societies, girls are less valued than boys and are expected to sacrifice their education and assume domestic responsibilities such as taking care of their parents and siblings. This gender-based discrimination makes women and girls disproportionately vulnerable to trafficking.

Porous borders, corrupt government officials, involvement of international organized criminal groups or networks, limited capacity of or commitment by immigration and law enforcement officers to control the borders, lack of adequate legislation and political will and commitment to enforce existing legislation or mandates are other factors that facilitate trafficking in persons.

Role of organized criminal groups

The involvement of a criminal organization in a particular case may not be readily apparent to the law enforcement officials investigating it or to others who encounter the victims involved.

Organized criminal groups have begun trafficking in persons as a supplement to other criminal activities, such as trafficking in illicit drugs, weapons or other lucrative commodities. These groups are also involved in crimes intended to protect illicit operations, including money-laundering, violence, intimidation and corruption of officials.

Recent years have seen the expansion of the involvement of criminal organizations in smuggling of migrants and trafficking in persons because of the extremely high profits and relatively low risks involved. Human trafficking may be carried out by a series of small, loosely connected organizations recruiting and selling victims from one to another as they move from the State of origin to a State of destination, or it may be carried out by large and sophisticated criminal organizations operating every stage of the process. In either scenario, few groups limit their criminal activities to trafficking in persons; other forms of trafficking or other crimes are almost always occurring.

Challenges for policymakers

Policy is the precise statement of agreed goals and their translation into action. In the case of human trafficking, it is important that this policymaking is sound. Like the challenges faced by law enforcement and the judiciary, those faced by law and policymakers working against human trafficking are complex. The reality of trafficking is that it crosses a number of policy boundaries as well as state boundaries. Policy to lead a national effort on trafficking in persons must bring together and coordinate work in:

- Immigration and border control
- Law enforcement
- Intelligence-gathering
- The judiciary
- Law-making
- International diplomacy
- Social and human services and housing
- Medical and psychological care
- Financial management
- Public information
- Personnel training, including the military

Additionally, it is likely to have an impact on public perceptions and opinions concerning:

- Control of immigration
- Ethnic and national differences
- Prostitution
- Labour surpluses or shortages
- Cultural norms concerning the care of children
- The treatment of women
- Corruption
- Organized crime

While the underlying problem of the criminal activity of trafficking in and abuse of persons is relatively non-controversial, many of the issues that extend from this do generate debate and controversy.

Challenges for law enforcement

Law enforcement agencies everywhere face some difficult challenges in their attempt to prevent and control human trafficking. Primary among these is the fact that trafficking is frequently a crime of an international nature, crossing national borders and jurisdictions. Law enforcement efforts can often be confounded by the need to conduct investigations or pursue criminals across international borders.

Stopping human trafficking is a complex problem for law enforcement. Human trafficking is in fact better understood as a collection of crimes bundled together rather than a single offence; a criminal process rather than a criminal event. It is often difficult to identify and harder still to convict traffickers. In many States, existing laws are difficult to enforce.

The crime of trafficking often goes unreported because victims of trafficking are frightened to give evidence, may have been brutalized and be in need of care, are likely to need interpretation services, and may sometimes have been treated as criminals themselves by some enforcement agencies.

In many States, both substantive and procedural law reforms are required to ensure that human trafficking and related offences are treated as serious crimes and that adequate powers are granted to law enforcement authorities in order to enable effective domestic investigations and prosecutions and facilitate international judicial and law enforcement cooperation.

Nevertheless, there are law enforcement personnel around the world who are arresting, prosecuting and punishing traffickers in persons. Some are achieving success by tracing the profits and money generated by this crime. Others have found that

linking the efforts of law enforcement in destination States with the skills and activities of law enforcement in the origin States can bring about arrests and convictions. Others find that increasing training of police at all levels and making sure that law enforcement personnel recognize indications and clues that trafficking in persons is taking place, lead to increased intervention and arrests. Most have recognized the importance of coordinating their efforts across agencies, including working with new partners such as non-governmental organizations dedicated to combating human trafficking and various other service providers.

Challenges for the criminal justice system and the judiciary

Trafficking offences are difficult to prosecute for some of the same reasons that they are difficult to investigate. Because of the nature of the offence, the frequent need to rely on evidence collected abroad, the potential for victims and witnesses to be traumatized and intimidated or for public officials to be corrupted and the need for interpreters and translators, the prosecution of these offences offers some new and difficult challenges to the judiciary. Enhanced international judicial collaboration, effective collaboration with victim assistance services, and the development of stronger witness protection measures must be part of any strategy to address these challenges.

Challenges for non-governmental organizations and service providers

Non-governmental organizations and victim services providers often find themselves in the front line in the fight against trafficking in persons. They usually need to meet the immediate and pressing needs of victims of trafficking, to act as their advocates, to help them understand national laws and regulations and identify the recourses that they may have under the law, to provide them with shelter and care, and to work closely with state agencies.

There are some non-governmental organizations that have been specifically established to do this work. Many were initially developed to serve women in need or to help individuals in need of housing or immigration services. Many non-governmental organizations have taken on work with trafficking victims in addition to their other heavy commitments to offer services.

The work of non-governmental organizations has been important in bringing to the fore the human face of trafficking victims. Some of the organizations were able to sensitize policymakers and law enforcement officials to the need to protect victims of human trafficking in order to empower them to participate in the battle against traffickers. In many States, closer links have been developed between non-governmental organizations and various state agencies, usually with excellent results. For example, in some instances representatives of non-governmental organizations can now accompany police on raids on establishments that may house trafficking

victims. This appears to increase the victims' willingness to testify against those who have exploited and abused them.

Many non-governmental organizations also play a crucial role with respect to public education and information. They can thus prevent some individuals from becoming victimized by traffickers and they can help victims of trafficking to escape from the control of their exploiters.



chapter 1

INTERNATIONAL LEGAL FRAMEWORK

International cooperation is a basic condition for the success of any response to trafficking in persons. National mechanisms to facilitate that cooperation must be established. Various forms of trafficking, including human trafficking, are committed across borders and cannot be addressed without joint international efforts and international cooperation. States must therefore turn to assist each other in the fight against various forms of complex and harmful transnational offences.

A growing number of bilateral, regional and global agreements reflect the realization that transnational crime can be addressed effectively through law enforcement and judicial cooperation. While ad hoc arrangements, bilateral mutual legal assistance and extradition treaties may bear positive results in some instances, the complexities of the legislative and procedural framework within and across jurisdictions sometimes prevent them from achieving their purpose.

Several United Nations conventions and regional instruments form the international legal framework within which States must define their own laws in order to address effectively the problem of human trafficking. These instruments also provide a framework for States wishing to collaborate with each other in various aspects of the fight against human trafficking. The most directly relevant of these are:

- United Nations Convention against Transnational Organized Crime
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

States that are serious about attacking the problem of human trafficking will find that it is to their advantage to ratify and implement the Organized Crime Convention itself and its related Trafficking in Persons Protocol and Migrants Protocol.

The Organized Crime Convention establishes general measures against transnational organized crime, whereas the two Protocols in question deal with specific crime problems. Each Protocol must be read and applied in conjunction with the Convention. The Organized Crime Convention applies to the two Protocols *mutatis mutandis*—“with such modification as the case requires”—and all offences established by the Protocols are also considered offences under the Organized Crime Convention itself.

The Organized Crime Convention and the Trafficking in Persons Protocol establish minimum standards. States parties are bound to adhere to this threshold but may still adopt stricter measures. For example, the offence of trafficking in persons must be defined in domestic law in such a way as to cover all forms of conduct included in the definition contained in article 3, subparagraph (a), of the Trafficking in Persons Protocol, but it can also cover additional activities if the legislators so wish.

The Organized Crime Convention and the Trafficking in Persons Protocol enable States to tackle the problem of trafficking in persons in a comprehensive manner. This is important because trafficking operations are often only one part of the overall picture. The criminal groups involved also tend to engage in other illicit activities, such as smuggling of migrants, drugs, weapons or other illicit commodities, and engaging in corruption or money-laundering. The Organized Crime

United Nations Convention against Transnational Organized Crime and the Trafficking in Persons Protocol

The United Nations Convention against Transnational Organized Crime is the international community's response to the need for a truly global approach. Its purpose is to promote cooperation both for the prevention and for the effective fight against transnational organized crime (art. 1). It seeks to enlarge the number of States that take effective measures against transnational organized crime and to forge and strengthen international cooperation. It respects the differences and specificities of diverse legal traditions and cultures, while at the same time promoting a common language and helping to remove some of the existing barriers to effective transnational collaboration.

The Convention focuses essentially on offences that are facilitative of the profit making activities of organized criminal groups. Its supplementary Protocols target certain specific types of organized criminal activity requiring specialized provisions.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime has three basic purposes: the prevention and combating of trafficking; the protection and support of victims of trafficking; and the promotion of cooperation between States parties (art. 2 of the Protocol).

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants (art. 2 of the Protocol).

The text of the Organized Crime Convention and the Protocols thereto can be found at: http://www.unodc.org/unodc/crime_cicp_convention.html

Convention facilitates the investigation and prosecution of all these criminal activities in a comprehensive manner, across borders when necessary. For example, it may be possible in some instances to prosecute someone involved in human trafficking for the offence of participating in the activities of an organized criminal group, even if there is not enough evidence to prosecute that person for the trafficking offence itself.

In addition to setting out specific requirements for extradition, mutual legal assistance and other forms of international cooperation, the Organized Crime Convention and the two Protocols set standards for both substantial and procedural law in order to assist States parties to harmonize their legislation and eliminate differences that can hamper prompt and effective international cooperation.

The following other conventions are also relevant:

- Convention on the Rights of the Child (1989)
General Assembly resolution 44/25, annex
<http://www.unicef.org/crc/>
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)
General Assembly resolution 54/263, annex II
<http://www.ohchr.org/english/law/crc-sale.htm>
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
(Part 1, article 6, refers to traffic in women and exploitation of prostitution of women)
General Assembly resolution 34/180, annex
<http://www.ohchr.org/english/law/cedaw.htm>

A number of non-binding international standards relating to trafficking are also relevant, including:

- Recommended Principles and Guidelines on Human Rights and Human Trafficking of the United Nations High Commissioner for Human Rights (2002)
(E/2002/68/Add.1)
http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf
- General Assembly resolution 57/176 of 18 December 2002, entitled “Trafficking in women and girls”
<http://daccessdds.un.org/doc/UNDOC/GEN/N02/549/78/PDF/N0254978.pdf?OpenElement>

TOOL 1.1. Implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Background

Most forms of trafficking, including trafficking in persons, are generally committed across borders and cannot be addressed without joint international efforts and international cooperation. It is important that all States wanting to work together to combat human trafficking become parties to the United Nations Convention against Transnational Organized Crime and its supplementary Trafficking in Persons Protocol and Migrants Protocol. This tool explains that a State must be a party to the Convention to become a party to the Protocols and elaborates on the relationship between these international cooperation instruments.

The steps required to bring national legislation into compliance with these international instruments may be quite complex, depending on the current state of national law. The United Nations Office on Drugs and Crime (UNODC) has prepared legislative guides to inform and facilitate that process. Technical assistance may also be available. This tool introduces the *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*⁸ and provides information on how to seek technical assistance.

A State must be a party to the Convention in order to become a party to the Trafficking in Persons Protocol

Article 37, paragraph 2, of the Organized Crime Convention provides that, in order to become a party to one of its Protocols, a State must first be a party to the Convention. The provisions of all the Protocols to the Convention are to be “interpreted together with this Convention, taking into account the purpose of that protocol” (art. 37, para. 4). However, the provisions of a particular Protocol are binding on the States parties only if they are parties to that Protocol as well.

Article 1 of the Trafficking in Persons Protocol and article 37 of the Organized Crime Convention establish the following basic principles governing the relationship between the two instruments:

- No State can be a party to any Protocol unless it is also a party to the Convention. The language permits simultaneous ratification or accession, but a State is not subject to any obligation under the Protocol unless it is also subject to the obligations of the Convention.
- The Convention and the Protocol must be interpreted together. In interpreting the various instruments, all relevant instruments should be considered and provisions using similar or parallel language should be given generally similar meaning. In interpreting a Protocol, the purpose of that Protocol must

⁸United Nations publication, Sales No. E.05.V.2.

also be considered, which may modify meanings applied to the Convention in some cases.

- The provisions of the Convention apply to the Protocol, *mutatis mutandis*. This means that, in applying Convention provisions to the Protocol, minor modifications of interpretation or application can be made to take account of the circumstances that arise under the Protocol, but that modifications should not be made unless necessary, and then only to the extent necessary. This general rule does not apply where the drafters have specifically excluded it.
- Protocol offences shall also be regarded as offences established in accordance with the Convention. This principle, which is analogous to the *mutatis mutandis* requirement, is a critical link between the Protocol and Convention. It ensures that any offence or offences established by a State in order to criminalize trafficking in human beings, as required by article 5 of the Trafficking in Persons Protocol, will automatically be included within the scope of the basic Convention provisions governing forms of international cooperation such as extradition (art. 16) and mutual legal assistance (art. 18). It also links the Protocol and Convention by making applicable to Protocol offences other mandatory provisions of the Convention. In particular, as discussed further in chapter 3 of the Legislative Guide for the Implementation of the Convention on criminalization, obligations in articles 6 (money-laundering), 10 (liability of legal persons), 11 (prosecution, adjudication and sanctions), 12-14 (confiscation), 15 (jurisdiction), 16 (extradition), 18 (mutual legal assistance), 20 (special investigative techniques), 23 (obstruction of justice), 24-26 (witness and victim protection and enhancement of cooperation), 27 (law enforcement cooperation), 29 and 30 (training and technical assistance) and 34 (implementation of the Convention) apply equally to the offences established in the Protocol. Establishing a similar link is therefore an important element of national legislation to implement the Protocols.
- The Protocol requirements are a minimum standard. Domestic measures may be broader in scope or more severe than those required by the Protocol, so long as all obligations specified by the Protocol have been fulfilled.

A. Legislative guides

The legislative guides are available from UNODC to assist States seeking to ratify or implement the Organized Crime Convention, the Trafficking in Persons Protocol, the Migrants Protocol and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, hereinafter the “Firearms Protocol” (General Assembly resolution 55/255, annex).

While they are directed chiefly at policymakers and legislators in States preparing for the ratification and implementation of the Convention and its Protocols, the legislative guides also provide a helpful basis for bilateral technical assistance projects and other initiatives to promote the broad ratification and implementation of these important legal instruments.

The legislative guides accommodate different legal traditions and varying levels of institutional development and provide, where available, implementation options. However, as the guides are for use primarily by legislative drafters, not every provision of the legal instruments is addressed. The focus is on those provisions that require legislative change and/or those requiring action prior to or at the time the Organized Crime Convention and or one of its Protocols become applicable to the State party concerned.

The legislative guides lay out the basic requirements of the Convention and the Protocols thereto, as well as the issues that each State party must address, while furnishing a range of options and examples that national drafters may wish to consider as they try to implement the Convention and its Protocols. The guides do not cover the provisions of the Convention and Protocols that do not contain legislative implementation obligations.

The legislative guides are available on the UNODC website (http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html).

The text of the Organized Crime Convention, the Protocols thereto and other relevant information can also be obtained at the UNODC website (http://www.unodc.org/unodc/crime_cicp_convention.html).

TOOL 1.2. Other relevant international instruments

Background

A number of international legal instruments in addition to the Organized Crime Convention and the Protocols thereto form part of the international legal framework relevant to the fight against trafficking in persons. They include humanitarian, human rights and other instruments of general application, instruments against trafficking or slavery in general and instruments concerning slavery or trafficking related to sexual exploitation. This tool lists those main instruments and provides a reference to the Internet sites at which the instruments can be consulted electronically.

Where to find the relevant instruments

Humanitarian, human rights and other instruments of general application

- Universal Declaration of Human Rights, adopted by the General Assembly on 10 December 1948 by its resolution 217 A (III)
<http://www.unhchr.ch/udhr/index.htm>
- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949

- United Nations, *Treaty Series*, vol. 75, No. 970
http://www.unhchr.ch/html/menu3/b/q_genev1.htm
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of 12 August 1949.
United Nations, *Treaty Series*, vol. 75, No. 971
http://www.unhchr.ch/html/menu3/b/q_genev2.htm
 - Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949.
United Nations, *Treaty Series*, vol. 75, No. 972
<http://www.unhchr.ch/html/menu3/b/91.htm>
 - Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949
United Nations, *Treaty Series*, vol. 75, No. 973
<http://www.unhchr.ch/html/menu3/b/92.htm>
 - Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977
United Nations, *Treaty Series*, vol. 1125, No. 17512
<http://www.unhchr.ch/html/menu3/b/93.htm>
 - Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977
United Nations, *Treaty Series*, vol. 1125, No. 17513
<http://www.unhchr.ch/html/menu3/b/94.htm>
 - International Covenant on Civil and Political Rights, of 16 December 1966
General Assembly resolution 2200 A (XXI), annex
United Nations, *Treaty Series*, vol. 999, No. 14668
http://www.unhchr.ch/html/menu3/b/a_ccpr.htm
 - Convention relating to the Status of Refugees, of 28 July 1951
United Nations, *Treaty Series*, vol. 189, No. 2545
http://www.unhchr.ch/html/menu3/b/o_c_ref.htm
 - Protocol relating to the Status of Refugees, of 31 January 1967
United Nations, *Treaty Series*, vol. 606, No. 8791
http://www.unhchr.ch/html/menu3/b/o_p_ref.htm
 - Convention on the Elimination of All Forms of Discrimination against Women, of 18 December 1979
General Assembly resolution 34/180, annex
United Nations, *Treaty Series*, vol. 1249, No. 20378
<http://www.unhchr.ch/html/menu3/b/e1cedaw.htm>
 - Convention on the Rights of the Child, of 20 November 1989
General Assembly resolution 44/25, annex
United Nations, *Treaty Series*, vol. 1577, No. 27531
<http://www.unicef.org/crc/>

- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, of 25 May 2000
General Assembly resolution 54/263, annex I
United Nations, *Treaty Series*, vol. 2173, No. 27531
<http://www.unhchr.ch/html/menu2/6/crc/treaties/opac.htm>
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, of 25 May 2000
General Assembly resolution 54/263, annex II
United Nations, *Treaty Series*, vol. 2171, No. 27531
<http://www.unhchr.ch/html/menu2/6/crc/treaties/opsc.htm>
- Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950
European Treaty Series, No. 5
United Nations, *Treaty Series*, vol. 213, No. 2889
<http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>
- Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993
A/CONF.157/24 (Part I), chap. III
<http://www.ohchr.org/english/law/pdf/Vienna.pdf>

Instruments against trafficking or slavery in general

- Slavery Convention, of 1926
United Nations, *Treaty Series*, vol. 212, No. 2861
<http://www.unhchr.ch/html/menu3/b/f2sc.htm>
- Protocol amending the Slavery Convention signed at Geneva on 25 September 1926
United Nations, *Treaty Series*, vol. 182, No. 2422
<http://www.unhchr.ch/html/menu3/b/f2psc.htm>
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, of 7 September 1956
United Nations, *Treaty Series*, vol. 266, No. 3822
<http://www.unhchr.ch/html/menu3/b/30.htm>
- Convention concerning Forced or Compulsory Labour International Labour Organization Convention No. 29, of 28 June 1930
United Nations, *Treaty Series*, vol. 39, No. 612
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029>
- Convention concerning the Abolition of Forced Labour International Labour Organization Convention No. 105, of 25 June 1957
United Nations, *Treaty Series*, vol. 320, No. 4648
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C105>
- Convention concerning Minimum Age for Admission to Employment International Labour Organization Convention No. 138, of 26 June 1973

United Nations, *Treaty Series*, vol. 1015, No. 14862
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>

- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
International Labour Organization Convention No. 182, of 17 June 1999
United Nations, *Treaty Series*, vol. 2133, No. 37245
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>

Instruments concerning slavery or trafficking related to sexual exploitation

- International Agreement for the Suppression of the White Slave Traffic, signed at Paris on 18 May 1904
League of Nations, *Treaty Series*, vol. I, No. 11, p. 83
- International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910
League of Nations, *Treaty Series*, vol. VIII, p. 278
- Protocol amending the International Agreement for the Suppression of the White Slave Traffic, signed at Paris on 18 May 1904, and the International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910
United Nations, *Treaty Series*, vol. 30, No. 446
- International Agreement for the Suppression of the White Slave Traffic signed at Paris on 18 May 1904, as amended by the Protocol signed at Lake Success, New York, 4 May 1949
United Nations, *Treaty Series*, vol. 92, No. 1257
- International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910, as amended by the Protocol signed at Lake Success, New York, on 4 May 1949
United Nations, *Treaty Series*, vol. 98, No. 1358
- International Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921
League of Nations, *Treaty Series*, vol. IX, No. 269, p. 415
- International Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933
League of Nations, *Treaty Series*, vol. CL, No. 3476, p. 431
- Protocol signed at Lake Success, New York, on 12 November 1947, to amend the Convention on the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, and the Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933
United Nations, *Treaty Series*, vol. 53, No. 770, p. 13
- International Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, as amended by the

Protocol signed at Lake Success, New York, on 12 November 1947
United Nations, *Treaty Series*, vol. 53, No. 771, p. 39

- International Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947
United Nations, *Treaty Series*, vol. 53, No. 772, p. 49
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 21 March 1950
General Assembly resolution 317 (IV), annex
United Nations, *Treaty Series*, vol. 96, No. 1342, p. 271
<http://www.unhchr.ch/html/menu3/b/33.htm>



chapter 2

PROBLEM ASSESSMENT AND STRATEGY DEVELOPMENT

Effective responses to the problem of human trafficking call for collaborative, multi-agency, long-term, coordinated, strategic and well-planned action. Planning for action must be based on a sound assessment of the problem and of the existing capacity to respond. It must be supported by a local willingness of the various groups and agencies involved to cooperate with each other and with others at the international level.

Proper assessment of the situation and planning of the intervention are usually the hallmarks of successful responses. The best assessments are those that are based on existing effective collaboration between the various agencies that need to be part of the response to the problem.

Given the complexity of the problem of human trafficking, it is unlikely that any real success will ever be achieved at the national level without some inter-agency collaboration on developing a national action plan to delineate some mutually agreed upon objectives, priorities for action, the many tasks to be achieved, the resources required and the respective responsibility of each agency.

There are a number of good examples of regional, national and local comprehensive strategies and plans of action to address human trafficking. These strategies are based on systematic efforts to assess the nature of the problem and the capacity of the various existing systems to respond to it. Tool 2.1 introduces some of these examples and will assist in determining how best to plan for the required assessments at the local and national levels. Tool 2.2 includes a list of questions for the assessment of the national legal framework.

Tool 2.3 presents some examples of regional action plans and strategies and tool 2.4 presents examples of national and local strategies. In some cases, national strategies rely on the efficient functioning of a national coordination mechanism.

Once a plan has been developed, it is necessary to communicate it broadly, to seek to establish broad-based support for its implementation, to secure the necessary financial and human resources, to define specific timelines and benchmarks for its implementation, to monitor its implementation and to evaluate its impact.

Developing multi-agency approaches (tool 2.5) and mechanisms for multi-agency coordination (tool 2.6) is part of the challenge, as is the need to develop an institutional capacity to implement a broad intervention strategy (tool 2.7).

**National assessments:
Tools of the Organization for Security and Cooperation in Europe**

The Organization for Security and Cooperation in Europe (OSCE) has published a Practical Handbook entitled *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons*, which provides guidance on how to design and implement sustainable mechanisms and structures to combat human trafficking and support victims. It also provides guidance on how to build and monitor the capacity of such mechanisms and structures.

The Handbook includes three useful instruments (questionnaires) that can be used in preparing for an assessment of the situation in a country, each concentrating on one aspect of a comprehensive assessment: (a) an assessment of country-specific conditions and needs; (b) an assessment of the current legal framework; and (c) a survey of the players and organizations involved in a response to trafficking.

The Practical Handbook can be found at:
http://www.osce.org/documents/odihhr/2004/05/2903_en.pdf

**Organization for Security and Cooperation in Europe:
Action Plan to Combat Trafficking in Human Beings**

The OSCE Action Plan recognizes that a comprehensive approach to trafficking in persons requires a focus on bringing to justice those responsible for this crime and on carrying out effective measures to prevent it, while maintaining a humanitarian and compassionate approach in rendering assistance to its victims.

The Action Plan aims to provide participating States with a follow-up mechanism, which will also promote coordination between individual participating States, both within the OSCE structures and with other international organizations. The Action Plan adopts a multidimensional approach to combating trafficking in human beings. It addresses the problem comprehensively, covering protection of victims, the prevention of trafficking in persons and the prosecution of those who facilitate or commit the crime. It provides recommendations as to how participating States and relevant OSCE institutions, bodies and field operations may best deal with political, economic, legal, law enforcement, educational and other aspects of the problem.

The Action Plan is contained in OSCE Permanent Council decision No. 557/Rev.1 and can be consulted at: http://www.osce.org/documents/pc/2005/07/15594_en.pdf

TOOL 2.1 Assessment of the national situation

Background

A systematic process that reviews local circumstances is required in order to assess properly the existing situation in a given State with regard to human trafficking. The assessment should review the nature and extent of the problem and identify the agencies and groups involved in victim protection and assistance. This tool provides references to existing examples of that process and the survey instruments that were used.

Assessment of the situation in Benin, Nigeria and Togo

As part of a UNODC project, several instruments to produce a comprehensive assessment of the situation in respect of human trafficking in Benin, Nigeria and Togo and of the capacity of existing organizations and mechanisms to respond have been developed. These instruments included questionnaires designed to obtain information from personnel of the following agencies and groups: (a) law enforcement; (b) immigration; (c) prosecution service; (d) Interpol; (e) magistrates and judges; (f) embassy/consulates; (g) non-governmental organizations; (h) government departments and ministries; (i) adult victims; and (j) child victims. They also included an exercise to gather data on prevention projects and services to trafficking victims as well as data on instances of trafficking known to government agencies.

To facilitate comparisons between States an attempt was made to introduce standard research tools for the purpose of conducting interviews with government and non-governmental organization experts as well as victims. A total of 13 instruments were designed, 10 of which were questionnaires while the remaining 3 were guidelines for the collection of data and statistics. There was a large degree of overlap in the content of the instruments, in particular for police, immigration, prosecution, judicial experts and Interpol. The content of the survey instruments is described in more detail below.

Survey instruments for personnel from law enforcement, immigration, Interpol, prosecution services and the judiciary (magistrates and judges). The survey instruments varied from 33 to 48 open-ended questions. They addressed the following issues: agency involvement and operations; awareness; definitions and criteria; processing of human trafficking cases and cooperation with other agencies; international cooperation; and challenges and recommendations for best practices.

Survey instrument for embassy personnel. Research teams were asked to target embassies of States of origin, transit and destination to measure the degree of cooperation with their own Government. This 24-item, open-ended questionnaire examined embassies' operations; processing of trafficking cases and cooperation with other agencies and countries; and challenges and recommendations for best practices.

Survey instrument for government departments and ministries. This 38-item questionnaire was designed to determine which ministries were involved in providing which services to victims (prevention and repatriation assistance), the degree of coordination between government departments and non-governmental organizations and challenges and recommendations for best practices.

Survey instrument for non-governmental organizations. This 44-item instrument posed questions to non-governmental organizations concerning their services, their prevention initiatives, the assistance they provided to repatriated victims, the extent to which their services were coordinated with government agencies, the challenges they encountered and their suggestions in terms of best practices.

Victim survey (adult and child). This closed-ended questionnaire contained 78 questions and sought information on demographic variables of the victim, recruitment practices, deception, exploitation, experience with the various government and non-governmental agencies and reporting patterns. The child victim questionnaire contained a guideline of topics for researchers to follow. The research teams were instructed to allow children to tell their stories, but also to seek, as much as possible, the kind of information outlined in the guidelines.

Statistics from government agencies. Researchers were asked to obtain statistics from government agencies on victims, offenders, criminal justice system responses and budget issues.

Topics for the analysis of case files. Researchers were asked to analyse case files and provide, where available, information on victims (their experiences with recruitment and exploitation), offenders (demographic variables and their role within the organization), criminal organizations (nature, practice and modus operandi), contacts with the licit and illicit environment, routes taken, costs and proceeds of the criminal activity and case data.

Survey relating to prevention projects and services to victims of trafficking. Research teams were asked to gather information on projects being implemented in the country with a focus on the following aspects: (a) organizations subsidizing projects; (b) geographical coverage, i.e. villages, cities and areas of the country in which these programmes are offered or have been implemented; (c) type of project, strategy and major activities (prevention through the media, schools, educational or job training projects, shelters, victims services such as counselling, repatriation and reintegration services, police and judicial training etc.); (d) recipients of the project such as potential victims, repatriated victims, parents, the community at large etc.; (e) length of time the project was offered and whether or not follow-up activities have been implemented; (f) whether the change was sustainable; and (g) known results.

Assessment of the situation in the Philippines: the importance of inter-agency cooperation

A rapid assessment project conducted in the Philippines by UNODC and the United Nations Interregional Crime and Justice Research Institute (UNICRI) reveals a situation that is typical in many States. At the time of the rapid assessment, a large number of government agencies and departments were already addressing various aspects of human smuggling and trafficking in their respective areas of competence. Though they were working towards the same goals, they often tended to operate independently, unaware of the efforts being undertaken by other departments or agencies. The result was duplication of efforts and inefficiency.

The assessment thus noted the need to strengthen the cooperation between government agencies and the criminal justice system. In particular, the assessment described a weak level of coordination between the police and prosecutors, a factor that led to the dismissal of cases. Within the criminal justice system, a special focus must be placed on the relationship between the police and the prosecution. Experience shows that successful prosecutions against traffickers depend on strong ties and excellent liaison between the police and the prosecutors and investigating magistrates.

The report on the rapid assessment can be consulted at:
http://www.unodc.org/pdf/crime/trafficking/RA_UNICRI.pdf

A more thorough assessment of the situation in the Philippines was reported in *Coalitions against Trafficking in Human Beings in the Philippines: Research and Action*, published by UNODC in 2003 and available at:
http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf

TOOL 2.2 Assessment of the existing legal framework

Background

Legislation as well as legal procedures and practices vary widely among States. In some States, existing laws on labour, migration, organized crime and prostitution may not have been harmonized with more recent laws or treaty obligations to fight human trafficking. Furthermore, legislation may be required to increase victim protection measures or to prevent trafficking.

A broad and comprehensive assessment of the national legal framework is usually required with regard to human trafficking, including criminal law, labour law, social services and employment laws, immigration and asylum laws, as well as investigative, criminal and judicial procedures.

The assessment questions may include the following:

Does your State have:

- Laws or other measures to criminalize trafficking in persons?
- A definition of trafficking in persons?
- Criteria for determining the consent of a trafficking victim?
- Legislation on trafficking in persons that differentiates between adults and children?
- Provisions to protect the privacy and identity of victims?
- Procedures to provide trafficking victims with information on relevant court and administrative proceedings?
- Measures to provide for the physical, psychological and social recovery of trafficking victims?
- Measures for the physical safety of trafficking victims while they are within the territory of your jurisdiction?
- Measures that offer trafficking victims the possibility of obtaining compensation for damage suffered?
- Legislative and other measures permitting trafficking victims to remain temporarily or permanently in receiving States?
- Laws or regulations regarding the repatriation of trafficking victims who are without proper documentation?
- Training for law enforcement, immigration or other relevant authorities in the prevention of trafficking in persons?
- Policies, programmes or action plans to prevent and combat trafficking in persons?
- Measures to protect trafficking victims from revictimization?
- Research, information or mass media campaigns to prevent and combat trafficking in persons?
- Measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity?
- Measures discouraging the demand that fosters all forms of exploitation of persons that leads to trafficking?
- Measures to keep and share information about the identification of possible victims and/or traffickers in transit?

Examples of such assessments are available, which provide some guidance.

Assessment of the legal system in Viet Nam

In Viet Nam, the Department of Criminal and Administrative Law of the Ministry of Justice, in collaboration with UNODC and the United Nations Children's Fund (UNICEF), conducted an assessment of the existing legal system in comparison with the requirements of the Trafficking in Persons Protocol and the Organized Crime Convention. The assessment report provides an example of the kind of questions that need to be examined in the context of such an exercise. A copy of the report can be obtained at:

http://www.unodc.org/pdf/crime/human_trafficking/legal_system_vietnam_2004-05.pdf

Assessment of specific aspects of the existing legal framework

At another stage of strategic planning, given local knowledge of typical patterns of trafficking, it may be necessary to assess more specifically the provisions of specific aspects of immigration, labour or criminal law that are being exploited or abused by traffickers. An example of one such legal assessment is the critical analysis of the legal framework governing immigrant live-in caregivers and mail-order brides conducted in Canada. The legal framework regulating the hiring of immigrant live-in caregivers is examined and issues are identified in relation to immigration law, social legislation and labour law, human rights and contract law. The analysis also examines the mail-order bride trade. As no Canadian law deals specifically with the mail-order bride industry, the analysis covers many legal areas indirectly governing this phenomenon: contract law, immigration law, the laws on marriage and divorce, private international law and criminal law. The analysis can be consulted at:

http://www.swc-cfc.gc.ca/pubs/pubspr/066231252X/200010_066231252X_8_e.html

TOOL 2.3 Regional action plans and strategies

Background

Given the often transnational nature of the problem of human trafficking, it is unlikely that any real success will ever be achieved at the national level without some international collaboration. This is why regional action plans have been prepared in many regions of the world. Many of the existing regional action plans include provisions on prevention, protection and prosecution of trafficking in persons as well as repatriation and reintegration of trafficking victims. Some regional action plans further promote information sharing, provision of education and vocational training and launching of public awareness-raising campaigns. This tool refers to some promising examples of regional action plans and strategies to combat human trafficking.

***Asian Regional Initiative against Trafficking in Women and Children:
Action plan to combat trafficking in women and children***

At the Asian Regional Initiative against Trafficking in Women and Children conference in Manila in 2000, more than 20 States and several international organizations and non-governmental organizations developed an action plan to combat trafficking in women and children. The plan contains four strategic areas for action in prevention, protection, prosecution and reintegration aspects of trafficking. The website <http://www.humantrafficking.org> is one of the first visible results of this action plan and helps the participants exchange information and learn from each other's experience. The action plan can be obtained at: http://www.humantrafficking.org/about/ariat.html#action_plan

***Association of Southeast Asian Nations:
Declaration against Trafficking in Persons Particularly Women and Children***

The Declaration can be obtained at: <http://www.aseansec.org/16793.htm>

At the tenth Summit of the Association of Southeast Asian Nations (ASEAN), held in November 2004, the Heads of State of ASEAN signed a Declaration to combat trafficking in persons in the ASEAN region. The Declaration reiterates ASEAN States' determination to protect and assist trafficked women through, inter alia, collecting and publishing data on the development of national efforts to combat trafficking and establishing national focal points on trafficking. The States declared, to the extent permitted by their respective domestic laws and policies, to undertake concerted efforts to effectively address trafficking in persons, particularly women and children, through the following measures:

- Establishment of a regional focal network to prevent and combat trafficking in persons
- Adoption of measures to protect official travel documents and identity papers from fraud
- Sharing of information, strengthening border controls and monitoring mechanisms and the enactment of necessary legislation
- Intensification of cooperation among law enforcement authorities
- Treating victims of trafficking humanely and ensuring essential assistance and prompt repatriation

***Asia-Europe Meeting:
Action Plan to Combat against Trafficking in Persons,
Especially Women and Children***

The Asia-Europe Meeting (ASEM) is a joint initiative of the ASEAN member States and the European Union. At the ASEM meeting of Ministers of Foreign Affairs in Beijing in May 2001, a joint plan of action against trafficking in women and chil-

dren was welcomed. The plan focuses on prevention, protection and law enforcement, as well as on rehabilitation, return and reintegration of the victims.

The plan of action can be obtained at:

http://www.iias.nl/asem/offdocs/docs/ASEMForMinMeeting_ActionPlanCombatTrafficking.pdf

Brussels Declaration on Preventing and Combating Trafficking in Human Beings

In 2002, the European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century, brought together more than 1,000 participants representing European Union member States and accession and candidate countries, third countries, as well as international, intergovernmental and non-governmental organizations and the institutions of the European Union. The Brussels Declaration on Preventing and Combating Trafficking in Human Beings (http://europa.eu.int/comm/justice_home/news/forum_crimen/2002/workshop/brussels_decl_en.htm) was the final outcome of the conference. Although created outside the institutional decision-making structures of the European Union, it became another important milestone in the fight against human trafficking. The European Commission announced its intention to make use of the Brussels Declaration as the main basis for its future work. On 8 May 2003, the Council of the European Union adopted conclusions concerning the Brussels Declaration. The European Parliament has referred to the Brussels Declaration in a number of documents. The Brussels Declaration is aimed at further developing European and international cooperation, concrete measures, standards, best practices and mechanisms and received broad support from participants at the Conference. In particular, recommendation 2 of the Brussels Declaration stipulates that, at the European level, an Experts Group, comprising representatives from Governments, intergovernmental organizations, non-governmental organizations, international bodies, researchers, the private sector, such as the transport sector, and other stakeholders should be set up by the European Commission.

The report of the Experts Group on Trafficking in Human Beings can be found at: http://europa.eu.int/comm/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1204_en.pdf

Economic Community of West African States: Initial Plan of Action against Trafficking in Persons (2002–2003)

In 2001, the Economic Community of West African States (ECOWAS) developed a regional plan of action against trafficking in human beings. The plan outlines the most urgent actions against trafficking in persons to be taken by ECOWAS member States, with a focus on criminal justice responses. The following are some of the tasks the member States have committed themselves to carry out:

- Facilitate and accept, with due regard for the safety of trafficked victims, their return without undue or unreasonable delay

- Establish a national task force on trafficking in persons in each member State that will bring together relevant ministries and agencies and develop recommendations for a national plan of action
- Take measures to create or develop the capacity of the reception centres where victims of trafficking can be sheltered
- Encourage trafficked victims to testify in the investigation and prosecution of cases of trafficking in persons, by giving due consideration to the safety and security of victims at all stages of legal proceedings, permitting them to remain in their territory

The complete plan of action can be obtained at:

http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/ecowas/10POAHuTraf.pdf

Plan of action of the Regional Conference on Migration

The Regional Conference on Migration (formerly known as the Puebla Process) is a multilateral regional forum on international migration that includes representation from all Central American countries, Canada, the Dominican Republic, Mexico and the United States of America. The group was established in 1996 to improve communication on migration issues among immigration and foreign policy officials in the region. In 2002, an action plan was adopted at a meeting of the Regional Conference on Migration held in Guatemala.

The plan includes the following objectives:

- To encourage the Governments of the regions that have not yet criminalized trafficking in persons to include the offence in their law
- To regularize the activities of the liaison officer network to combat smuggling of migrants and trafficking in persons
- To intensify cooperation through a regional workplan to make the borders safe
- To enhance public awareness of the risks and dangers of irregular or undocumented migration through information campaigns
- To establish coordination mechanisms relative to consular protection and national legislation
- To strengthen respect for the human rights of all migrants regardless of their migrant status, with special attention to protection of the rights of vulnerable groups such as women and children

The plan of action can be obtained at:

http://www.rcmvs.org/Plan_of_Action_v_RCGM_Panama_FEB_2005.pdf

Report of the Expert Group on Strategies for Combating the Trafficking of Women and Children

Law Ministers of the Commonwealth, at a meeting held in Trinidad and Tobago in 1999, concluded that the Commonwealth Secretariat should propose strategies to assist States in developing national and regional initiatives against human trafficking. An Expert Group on Strategies for Combating the Trafficking of Women and Children developed a set of proposals dealing with: (a) prevention; (b) return, rehabilitation and reintegration of victims; (c) research and creation of a database; and (d) media strategies.

The report can be obtained at:

http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/{9DA75C65-FBFE-4F33-8CA1-99D014B52989}_Trafficking%20of%20Women.pdf

TOOL 2.4 National and local strategies

Background

Many examples of national strategies and national plans to prevent and suppress human trafficking already exist and can be consulted. References to some examples are cited below. The content of each plan is obviously dictated by national circumstances, but effective plans usually share some of the same features. They state the major objectives to be pursued and around which there can be a consensus for action. They delineate the strategic actions that must be taken to achieve those objectives, set priorities, identify who is responsible for implementing their various components, and identify the resources that are required for their implementation. The better plans also delineate how progress towards the achievement of specific goals and objectives is to be monitored and eventually evaluated. Given the nature of the phenomenon of human trafficking, a strategy to combat trafficking in persons must also specifically address the need for enhanced international cooperation.

In some cases, national strategies are built on providing support for local initiatives. For instance, in the United Kingdom of Great Britain and Northern Ireland, the national strategy is based in part on implementing local measures to combat human trafficking. The United Kingdom *Crime Reduction Toolkit on Trafficking of People*, particularly its chapter 4, offers some suggestions on the development of such local strategies. The toolkit can be consulted at:
<http://www.crimereduction.gov.uk/toolkits/tp00.htm>

Albania

The Albanian National Plan of Action on Combating Trafficking in Human Beings 2005-2007 can be obtained at:
http://www.caaht.com/resources/NationalStrategy_2005-7_ENGLISH.pdf

Armenia

The Action Plan for Prevention of Trafficking in Persons from the Republic of Armenia 2004-2006 can be obtained at:

http://www.armeniaforeignministry.com/perspectives/040716_traff_en.doc

Australia

The Australian Government's Action Plan to Eradicate Trafficking in Persons can be obtained at:

[http://www.ag.gov.au/agd/WWW/rwpattach.nsf/personal/70574080BA05E23ECA256EB5001866A7/\\$FILE/99+TraffickingplanNEW.doc](http://www.ag.gov.au/agd/WWW/rwpattach.nsf/personal/70574080BA05E23ECA256EB5001866A7/$FILE/99+TraffickingplanNEW.doc)

Bosnia and Herzegovina

Bosnia and Herzegovina's Action Plan for Prevention of Human Trafficking can be obtained at: http://www.womenwarpeace.org/bosnia/docs/action_plan.pdf

Cambodia

In 2002, the Ministry of Women's and Veterans' Affairs of Cambodia adopted a concept paper entitled "Strengthening mechanisms and strategies to counter trafficking". The document can be obtained at:

http://www.tipinasia.info/files/doc/3/3/33/ConceptPaper_on_Trafficking.pdf

<http://www.humantrafficking.org/countries/eap/cambodia/govt/draftconceptpaper.pdf>

On 17 March 2000, the Council of Ministers of Cambodia adopted a Five Year Plan against Sexual Exploitation of Children (2000-2005). The plan can be obtained at:

http://www.tipinasia.info/files/doc/4/3/34/CNCC_5Year_NAP_Children.pdf

<http://www.ecpat-esp.org/documentacion/planes-nacionales/Camboya.pdf>

Indonesia

The Government of Indonesia has adopted a national plan of action that includes the following measures:

- To guarantee improvement and advancement in efforts to protect the victims of trafficking in persons, especially women and children
- To formulate preventive as well as punitive measures in the campaign to prevent and combat trafficking in persons, especially trafficking involving women and children
- To encourage development and/or improvement in the laws dealing with trafficking in persons activities, especially such activities that involve women and children

In order to meet these objectives, the plan has five main elements, each containing a list of activities to be conducted by the Government at the national, provincial, district and local levels, as follows:

- Legislation and law enforcement: establishing legal norms and empowering law enforcement to take effective action against traffickers
- Prevention of all forms of human trafficking
- Protection and assistance for victims: providing rehabilitation and social reintegration for victims of trafficking
- Participation of women and children (empowerment)
- Building cooperation and coordination (national, provincial, local, regional and international: bilateral and multilateral)

See Ruth Rosenberg, ed., *Trafficking of Women and Children in Indonesia* (Jakarta, International Catholic Migration Commission and American Center for International Labor Solidarity) at: <http://www.icmc.net/files/traffreport.en.pdf>

Netherlands

The Government of the Netherlands has adopted an Action Plan to Combat Human Trafficking, a summary of which can be consulted at:

http://www.government.nl/actueel/nieuwsarchief/2004/12December/10/0-42-1_42-51841.jsp

Norway

In Norway's Plan of Action for Combating Trafficking in Women and Children, the Government has launched measures to protect and assist the victims, prevent human trafficking and prosecute the organizers.

The plan can be consulted at: <http://odin.dep.no/filarkiv/175924/Trafficking-eng.pdf> and a summary is available at:

http://odin.dep.no/filarkiv/170684/summary_of_the_measures_in_the_action_plan.doc

Thailand

The Government of Thailand has adopted a plan of action to prevent trafficking, protect and reintegrate victims and prosecute traffickers. The national policy calls for a total elimination of the involvement of children in commercial sex activities. The use of violence, threats, intimidation and exploitation in the sex trade industry is to be prohibited and all persons who take part in the prostitution of children should be punished. The policy also calls for the punishment of officials negligent in, or choosing to ignore, their duty to enforce compliance with relevant policies, law, rules and regulations. The comprehensive plan includes prevention measures, victim protection measures, measures for the repatriation and reintegration of victims, as well as measures for the criminalization and prosecution of offenders involved in human trafficking for the purpose of exploitative sex.

A summary of the plan can be consulted at:

http://humantrafficking.org/countries/eap/thailand/govt/action_plan.htm

Viet Nam

In July 2004, the Government of Viet Nam adopted a national action plan to prevent and combat traffickers in women and children for the period 2004–2010. The plan includes several important dimensions: (a) advocacy and education in the community on the prevention of trafficking in women and children; (b) action against traffickers of women and children, including law enforcement; (c) support for women and children from other countries who are victims of traffickers; (d) border control; and (e) strengthening of the legal framework.

TOOL 2.5 Steps in developing a multi-agency approach to intervention

Background

Multi-agency approaches are required to address the many complex and interrelated issues created by trafficking in persons. This tool offers a checklist of major steps required in establishing such a framework. It also suggests that protocols and memorandums of understanding between agencies can provide a solid basis upon which to build such collaboration.

Given the nature of the trafficking problem and the crimes it involves, the expertise required to address it effectively and the multiple needs of its victims, it is essential that a multi-agency approach is taken to any initiative. Multi-agency collaboration is not easy and it takes time and effort for it to work effectively. A management and operational framework therefore needs to be agreed that can steer and manage any subsequent specific initiative or intervention. This may build on existing arrangements, where these exist.

Establishing such a framework involves:

- Identifying key contacts and agency representatives
- Establishing personal links between the various agency contacts
- Developing multi-agency training
- Jointly assessing the local priorities and developing strategies and action plans
- Starting to share intelligence and data
- Starting to work on protocols for joint working, and
- Agreeing on management structures and processes for developing the multi-agency approach further

Strong and effective leadership of multi-agency partnerships is of critical importance to their success.

Formal protocols and memorandums of understanding between law enforcement and non-governmental organizations

It is suggested that, as a matter of best practice, formal protocols setting out the role and responsibilities of law enforcement on the one hand and relevant non-governmental organizations on the other and governing the exchange of intelligence between them should be drawn up.

The safety of victims remains the ultimate responsibility of law enforcement officers and agreements should only be entered into with credible and secure support organizations that have the capacity to deliver victim services.

It is not possible here to provide a detailed breakdown of how these protocols should be worded. This must be a matter for local agreements dependent upon local circumstances. However, the protocol should include a general joint statement of purpose in relation to combating human trafficking. According to local circumstances the responsibilities of each side should be set out in detail. For example, it is the responsibility of the investigator to record the evidence and to arrange for attendance at identification parades, court appearances, or evidential physical examinations. The support agency may take responsibility for providing an expert counsellor or lawyer to be present at any interviews or court appearances involving the victim and for applying for temporary residency status and state benefits. At a minimum, a protocol should include:

- A declaration that the intelligence being retained and exchanged is in compliance with the relevant data protection and confidentiality legislation
- The process and means through which intelligence will be exchanged. This may include a specific position within each organization or may relate to a named individual
- A timetable of scheduled meetings, where appropriate
- The terms of the intelligence exchange, to include both personal data and thematic intelligence
- A description of the process that will be used to resolve difficulties and differences of interpretation
- A description of how the confidentiality of the personal data exchanged will be protected

Source: United Kingdom Crime Reduction Toolkit on Trafficking of People, available at: <http://www.crimereduction.gov.uk/toolkits/tp00.htm>

TOOL 2.6 Inter-agency coordination mechanisms

Background

Inter-agency collaboration is a prerequisite for the success of any national or local strategy to prevent and combat trafficking in persons. There exist several examples of such mechanisms. This tool refers the reader to three such examples, in Nigeria, in the United Kingdom and in the United States.

Coordination mechanisms should be competent to elaborate and implement anti-trafficking policies, monitor their implementation, coordinate the actions of all relevant actors at the national level and facilitate international cooperation. Their role should not be restricted to the prosecution of offenders, but should also encompass the development and coordination of measures to assist and protect victims of human trafficking.

The successful cooperation mechanisms are based on a clear delineation of the respective roles of the various agencies involved. While developing such coordination mechanisms, it is very important to clarify very precisely the role of each of the key agencies involved in implementing a comprehensive strategy, whether national or local.

For a concrete example, one may consult the lists of the specific roles and responsibilities of various agencies that were developed in the United Kingdom to support the development of local frameworks. It is clear that local situations will determine what can be done and who is best positioned to do it. The Toolkit developed in the United Kingdom offers a series of checklists, which do not prescribe who should do what but instead present some of the contributions that different agencies and groups may be able to make.

These lists are part of the Toolkit developed by the Government of the United Kingdom and can be consulted at: <http://www.crimereduction.gov.uk/toolkits/tp05.htm>

These or similar checklists can be reviewed and used to assist in making decisions on who actually does what locally. The scale and nature of the local problem, the mandate of the organizations, existing expertise and the resources available will influence such decisions.

Multi-agency coordination or management groups need to ensure that the specific roles and responsibilities of the different agencies are agreed upon and understood by all involved. Equally, the issues of leadership and accountability need to be addressed from the outset.

Inter-agency Task Force to Monitor and Combat Trafficking in Persons (United States)

The Trafficking Victims Protection Act of 2000 called for the creation of the President's Inter-agency Task Force to Monitor and Combat Trafficking in Persons

to coordinate anti-trafficking efforts among various United States federal government agencies. The United States Department of Health and Human Services is designated as the agency responsible for helping victims of human trafficking to become eligible to receive benefits and services, which are critical to helping them regain their dignity and become self-sufficient. The main departments involved in assisting victims of human trafficking are:

- **Department of Health and Human Services**

The Department of Health and Human Services is responsible for certifying victims of human trafficking once they are identified. This certification allows victims to receive federally funded benefits and services to the same extent as refugees.

- **Department of Justice**

The Department of Justice investigates cases of trafficking and prosecutes the traffickers. The Department has also contributed to the construction of a network of providers of services to victims of trafficking through their grant programmes and facilitates the complaint process for persons wanting to report a case of trafficking.

- **Department of Labor**

The Department of Labor offers programmes such as job-search, job-placement assistance and job-counselling services as well as educational and training services and referrals to supportive services such as transportation, childcare and housing, through its “One-Stop Career Center System”, which victims can access after certification by the Department of Health and Human Services. The Wage and Hour Division also investigates complaints of labour law violations and is an important partner in the detection of trafficking victims.

- **Department of State**

The Department of State is responsible for coordinating international anti-trafficking programmes and efforts.

- **Department of Homeland Security**

Within the Department of Homeland Security, the United States Citizenship and Immigration Services investigates cases of trafficking and is an important partner in victim identification. The United States Bureau of Immigration and Customs Enforcement awards the T visa and continued-presence status, which makes a victim eligible for certification by the Department of Health and Human Services.

See <http://www.acf.hhs.gov/trafficking/>

Trafficking in Persons and Worker Exploitation Task Force (United States)

The United States Government has established a Trafficking in Persons and Worker Exploitation Task Force to prevent worker exploitation and to investigate and prosecute cases, many of which are the result of trafficking. The Task Force is chaired by the Assistant Attorney General for Civil Rights and the Solicitor of Labor. There

are 15 regional task forces working under the Task Force throughout the United States. The Task Force operates a toll-free complaint line and offers foreign language translation services in most languages.

See <http://www.usdoj.gov/crt/crim/tpwetf.htm>

Local multi-agency groups in the United Kingdom

In the United Kingdom, multi-agency groups are essentially responsible for ensuring that a holistic approach to the problem is taken. They cover the needs of the victims as well as supporting enforcement measures. They are also responsible for ensuring that their actions fit in with existing national initiatives. Their responsibilities include (a) education and awareness-raising activities; (b) ensuring that all relevant agencies and parties are informed and involved in decision-making and planning; (c) joint training initiatives; (d) developing appropriate working practice protocols; (e) ensuring information exchange between statutory and non-governmental organizations; (f) monitoring incidence rates and the impact of any local initiatives; and (g) developing local strategies and action plans.

See <http://www.crimereduction.gov.uk/toolkits/tp0507.htm>

Nigerian National Agency for the Prohibition of Traffic in Persons and Other Related Matters

The Nigerian National Agency for the Prohibition of Traffic in Persons and Other Related Matters is the Government's focal point in the fight against human trafficking. The agency was established by law and its mandate includes investigating and prosecuting offenders, counselling and assisting the rehabilitation of trafficked victims, public education, coordinating law reform relating to human trafficking and improving the effectiveness of law enforcement agencies in their efforts to suppress human trafficking.

The Agency has established partnerships at the community, state, national and international levels. The Agency consists of a Board of Directors, an Executive Secretary, five divisions and two units, mainly composed of staff on secondment from various other units involved in efforts to combat human trafficking drawn from the police, the Immigration Service, the Ministry of Information, the Attorney General's office, the departments of women affairs and social welfare, as well as from the media. The Agency carries out joint operations with existing police and immigration units working to combat human trafficking. It also promotes a national consultation as part of the development of a national action plan against human trafficking. The Agency is also providing liaison functions between government agencies and non-governmental organizations and community-based organizations involved in victim rehabilitation and community awareness-raising initiatives.

Information on the Nigerian National Agency for the Prohibition of Traffic in Persons and Other Related Matters can be obtained at: <http://www.naptip.com>

TOOL 2.7 Capacity-building and training

Background

Capacity-building measures should be built on a prior assessment of the situation, on a clear delineation of the role of various agencies, on an understanding of existing knowledge and expertise and on an analysis of the roles and competencies required for the implementation of a comprehensive strategy.

Article 10, paragraph 2, of the Trafficking in Persons Protocol provides that States parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The Protocol also stipulates that:

The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

This tool provides references to training programmes and materials.

UNODC training manual on the implementation of the ECOWAS Plan of Action against Trafficking in Persons

A training manual on the implementation of the ECOWAS Plan of Action against Trafficking in Persons was developed within the framework of a project involving UNODC and ECOWAS. The manual includes definitions of trafficking in human beings and smuggling of migrants, as well as general guidelines on investigation and prosecution of cases related to trafficking in human beings, with a focus on cooperation between ECOWAS member States. The manual was used as reference material and in training activities under the project. The manual can be consulted at: http://www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Training manuals for law enforcement, prosecutors and judges (South-Eastern Europe) (International Centre for Migration Policy Development)

In the framework of the Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings, the International Centre for Migration Policy Development has developed a comprehensive training and capacity-building programme to address trafficking in human beings in South-Eastern Europe.

For more information visit the Centre's website, at:

<http://www.icmpd.org/default.asp?nav=news&folderid=405&id=306&subfolderId=343>

<http://www.icmpd.org/uploading/Comprehensive%20Training%20Strategy.pdf>

<http://www.icmpd.org/default.asp?nav=capacity&folderid=-1&id=432>

***Training manuals for law enforcement
(United Nations Development Programme, Romania)***

The United Nations Development Programme (UNDP) *Law Enforcement Manual for Fighting against Trafficking in Human Beings* offers a good example of a comprehensive training instrument for law enforcement officials. It contains both a user's manual and a trainer's manual.

Both manuals can be consulted at:
<http://www.undp.ro/governance/Best%20Practice%20Manuals/>

***Training Manual for Combating Trafficking in Women and Children
(Myanmar)***

As an outcome of a training exercise that took place in Myanmar, a *Training Manual for Combating Trafficking in Women and Children* was developed as part of the United Nations Inter-agency Project on Combating Trafficking in Women and Children in the Sub-Mekong Region.

The manual can be consulted at:
http://www.un.or.th/TraffickingProject/Publications/trafficking_manual.pdf

***Manual on Policing Violence against Women and Children
(Southern African Regional Police Chiefs Cooperation Organization)***

The Southern African Regional Police Chiefs Cooperation Organization has developed a training manual on policing violence against women and children, which includes a component on trafficking in women and children. The aim of the manual is to standardize regional training programmes for law enforcement officers and other professionals.

The manual can be consulted at:
<http://www.trainingforpeace.org/resources/vawc.htm>

***Training on Human Rights and Humanitarian Law for Police and Security Forces
(International Committee of the Red Cross)***

Several elements of the manual developed by the International Committee of the Red Cross entitled *Human Rights and Humanitarian Law for Police and Security Forces* are in many ways relevant to the training of law enforcement officials in relation to human trafficking.

It can be consulted at:
[http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/\\$File/ICRC_002_0698.PDF](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/$File/ICRC_002_0698.PDF)
F!Open



chapter 3

LEGISLATIVE FRAMEWORK

A comprehensive national strategy to respond to the problem of trafficking in persons will take into account the need to review and amend, as necessary, the legislative framework within which the response will take shape. This includes various legislative reforms required to bring national legislation into compliance with international human rights standards and ensuring that the offence of trafficking is created in domestic criminal law. It also involves, as required, the criminalization of other offences related to trafficking in persons as well as a review of the provisions of national law with respect to the liability of legal persons. Finally, it involves a review of immigration and other relevant legislation to ensure that this incorporates the definition of “trafficking in persons” and facilitates the development of a coherent and comprehensive response to human trafficking under national law. Several tools are offered here to support this important exercise.

Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto⁹

UNODC has developed legislative guides to facilitate the implementation of the Organized Crime Convention and its Protocols. These guides can be consulted at: http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html

TOOL 3.1 Criminalization of the trafficking offence

Background

The Trafficking in Persons Protocol requires the criminalization of trafficking in persons. The Organized Crime Convention also requires the criminalization of the full range of conduct covered by the definition of “trafficking in persons” provided by the Protocol. This tool explains the criminalization requirements under article 5 of the Protocol. It provides examples drawn from national legislation.

Legislative reform

Article 5 of the Trafficking in Persons Protocol requires States parties to criminalize trafficking in persons as defined in article 3 of the Protocol. In other words, it is not sufficient to criminalize some of the underlying offences to human traffick-

⁹United Nations publication, Sales No. E.05.V.2.

ing but human trafficking needs to be criminalized as such. In addition to the criminalization of the trafficking crime, the Trafficking in Persons Protocol requires criminalization also of:

- Attempt to commit the crime of trafficking
- Participation as an accomplice
- Organizing or directing others to commit trafficking

Examples of promising practices

Regulation No. 2001/4 on the Prohibition of Trafficking in Persons (Kosovo)

Article 2, paragraph 1 of the United Nations Mission in Kosovo Regulation No. 2001/4 on the Prohibition of Trafficking in Persons in Kosovo states that “any persons who engages or attempts to engage in trafficking in persons commits a criminal act and shall be liable upon conviction to a penalty of two to twelve years imprisonment”. This provision thus also covers the attempt to commit trafficking. The law further criminalizes the organization of a group of persons for the purpose of committing trafficking and the facilitation of the commission of trafficking by negligence (art. 2, paras. 3 and 4).

The sanctions established for trafficking range from 2 to 12 years imprisonment, which reflects the broad spectrum of activities related to trafficking. Judges must sentence offenders within that framework in accordance with the general provisions of the criminal procedural law of Serbia and Montenegro. Aggravating circumstances that can be considered at the time of sentencing include the number of victims trafficked, the treatment of the victims and the position of the perpetrator. Other aggravating circumstances are specified by the law, which provides for harsher penalties when the victim is under the age of 18 and when the perpetrator has been found guilty of organizing a group of persons for the purpose of committing trafficking. Mitigating circumstances, on the other hand, may include the fact that the offender has protected the victims against inhumane treatment by other perpetrators or has confessed to the crime.

Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (Nigeria)

Prior to the ratification of the Organized Crime Convention and the Trafficking in Persons Protocol and Migrants Protocol, Nigerian law, including the Penal Code, the Criminal Code, the Labour Act and the Immigration Act, had criminalized various offences relating to human trafficking, but the legislation was widely seen as ineffective. In 2003, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act was adopted. The Act criminalizes human trafficking as such. More information on the Act can be obtained at: <http://www.naptip.com>

Victims of Trafficking and Violence Protection Act 2000 (United States)

The United States Code, as amended by the Victims of Trafficking and Violence Protection Act 2000, establishes the following activities as criminal offences of trafficking:

Section 1590

Trafficking with respect to peonage, slavery, involuntary servitude, or forced labour

Whoever knowingly recruits, harbors, transports, provides or obtains by any means, a person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both.

Section 1591

Sex trafficking of children or by force, fraud or coercion

Whoever knowingly

1. in or affecting interstate commerce, recruits, entices, harbors, transports, provides or obtains by any means a person; or
2. benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph 1, knowing that force, fraud or coercion described in subsection (c) (2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

This law distinguishes between sex trafficking and other forms of trafficking. Sex trafficking is a criminal offence only if it is carried out by force, fraud or coercion, or if the victim is a minor (in the latter case, there is no force, fraud or coercion required). If a case of sex trafficking involves peonage (i.e. debt bondage), slavery, involuntary servitude or forced labour, it can also be prosecuted.

Section 1590 (Trafficking with respect to peonage, slavery, involuntary servitude, or forced labour) provides for imprisonment up to a maximum of 20 years. Under aggravating circumstances (if death results from trafficking or if the act includes kidnapping, attempted kidnapping, aggravated sexual abuse, an attempt to commit aggravated sexual abuse or an attempt to kill), imprisonment may be for any term of years or life. Sex trafficking according to section 1591 (Sex trafficking) leads to imprisonment up to a maximum of 20 years in case of sex trafficking of a minor who is between 14 and 18 years old. If the victim is younger than 14 or if the crime involves force, fraud or coercion, imprisonment can be for any term of years or life. Both provisions also provide for fines—together with, or instead of, imprisonment.

Measures against Trafficking in Human Beings (Italy)

In 2003, the Italian Parliament introduced a new law on measures against trafficking in human beings, which modified articles 600, 601 and 602 of the Criminal Code. Article 601 of the Criminal Code defines trafficking in human beings as follows:

Article 601
Human trafficking

Whosoever commits human trafficking found in the conditions under Article 600 or, with the aim of committing crimes contained in the first paragraph of the same article, induces through deception or forces through violence, threats, abuse of authority or profiting from a situation of physical or psychological inferiority or from a situation of necessity, or through promises or giving sums of money or other advantages to those having authority over the person, to allow entry or a stay or to leave the territory of the State or to internal transfer, is subject to punishment by a prison sentence of between eight to twenty years. The sentence is increased by one third to one half if the facts contained in the first paragraph relate to minors of less than 18 years or which are directed towards exploitation of prostitution or with the aim of subjecting that person to the extraction of organs. Referred to in "Programme of Action against Trafficking in Minors and Young Women from Nigeria into Italy for the purpose of sexual exploitation, a desk review by UNICRI", available at: http://www.unicri.it/wwd/trafficking/nigeria/docs/dr_italy_eng.pdf

TOOL 3.2 Other offences related to trafficking in persons

Background

Although they are not required to do so under the Trafficking in Persons Protocol, many States have also criminalized many of the conducts related to human trafficking. Most States have laws criminalizing abduction, illegal sequestration and kidnapping in general. These acts constitute criminal offences in most States and could be invoked to address certain elements of the full range of crimes.

Prosecution of related offences

Trafficking is often only one of the crimes committed against trafficked persons. Other crimes may be committed to ensure the compliance of victims, maintain control, protect trafficking operations or maximize profits. Victims may be subjected to threats, physical and sexual violence or other mistreatment. Passports and other identity documents may be taken from them. They may be forced to work without payment, often in occupations that are unpleasant, difficult, dangerous or illegal in the State where they occur, such as prostitution, the making of pornography and trafficking in illicit commodities such as narcotic drugs. Apart from other

offences committed against victims, former victims who assist authorities may be threatened with or subject to retaliatory violence and public officials may be subject to corruption, threats or both.

These acts constitute criminal offences in most States and could be invoked to address certain elements of the full range of crimes. This could be useful in States where a distinct criminal offence of trafficking does not yet exist, or where penalties for trafficking do not sufficiently reflect the seriousness of the crime. There may also be cases where the existing evidence is not sufficient to support prosecution for human trafficking, but may be sufficient for a prosecution for related offences.

The prosecution of accused individuals for additional or overlapping offences may also be useful in demonstrating to courts the seriousness of a particular trafficking operation. In some instances, for example, evidence relating to certain aspects of the trafficking operation (e.g. total number of victims, length of time of the operation, the corruption involved and the seriousness of the harm done to the victims) may only be fully revealed by bringing additional charges before the court. Such offences include, but are not limited to, the following:

- Slavery
- Slavery-like practices
- Involuntary servitude
- Forced or compulsory labour
- Debt bondage
- Forced marriage
- Forced prostitution
- Forced abortion
- Forced pregnancy
- Torture
- Cruel, inhuman or degrading treatment
- Rape or sexual assault
- Causing bodily injury
- Murder
- Kidnapping
- Unlawful confinement
- Labour exploitation
- Withholding of identity papers
- Corruption

For example, in a case before the Austrian Provincial Court of Vienna, a trafficker was convicted and sentenced to eight years' imprisonment for trafficking and a series of other offences, including bodily injury, rape, forced abortion, forgery of documents and damage to property. Evidence included the testimony of two female victims who had been expelled, but were brought back to Austria to testify, partly through the assistance of non-governmental organization support groups in Austria and the victims' State of origin.

Most of these additional offences, as “serious crimes”, will also trigger the application of the Organized Crime Convention. A “serious crime” under the Convention is one punishable under national law by four years of imprisonment or more. States reviewing their legislation may wish to ensure that, when appropriate, offences that are frequently associated with trafficking in persons meet this requirement. Where the Convention applies, a wide range of powers and procedures, including mutual legal assistance, extradition and various forms of law enforcement cooperation become available for dealing with transnational aspects of a case.

Crimes linked to trafficking in persons

Trafficking in persons should be understood as a process rather than as a single offence. It begins with the abduction or recruitment of a person and continues with the transportation and entry of the individual into another State. This is followed by the exploitation phase, during which the victim is forced into sexual or labour servitude or other forms of exploitation. A further phase may occur, which does not involve the victim but rather the offender. Depending upon the size and sophistication of the trafficking operation, the criminal (organization) may find it necessary to launder the criminal proceeds.

During this process, the offenders usually perpetrate a number of different offences. There may be linkages between trafficking operations and other criminal offences such as the smuggling of weapons or drugs. Offences are also committed in furtherance or protection of the human trafficking operation. Other crimes, such as money-laundering and tax evasion, are secondary, but essential to protect the illicit proceeds of the trafficking activity.

A typology can be created to understand further the nature of the offences related to the trafficking process. The perpetration of crimes can be characterized according to the victim (the individual victim or the State) or in terms of the phase of the trafficking process: recruitment, transportation and illegal entry of the trafficked person, the exploitation phase, or the subsequent phase of profit laundering. The number and types of offences are often contingent upon the sophistication of the smuggling and trafficking operation and the criminal groups involved. The table opposite shows the various offences perpetrated at different stages of the trafficking process, while indicating whether the “victim” is the State, or the individual who has been trafficked.

Trafficking in persons as a process and other related crimes			
Recruitment	Transportation and entry	Exploitation	Other offences
Document forgery	Document forgery	<i>Unlawful coercion</i>	Money-laundering
<i>Fraudulent promises</i>	Immigration law abuse	<i>Threat</i>	Tax evasion
<i>Kidnapping</i>	Corruption of officials	<i>Extortion</i>	Corruption of officials
False consent of parent or guardian of a child	Damage to property	<i>False imprisonment</i>	Intimidation or subversion of officials
Recruitment to which the victim lacks capacity to consent	<i>Withholding documents</i>	<i>Kidnapping</i>	
		<i>Procurement</i>	
		<i>Theft of documents</i>	
		<i>Sexual assault</i>	
		<i>Aggravated assault</i>	
		<i>Rape</i>	
		<i>Death</i>	
		<i>Forced abortion</i>	
		<i>Torture</i>	
<p><i>Note:</i> Offences in <i>italics</i> indicate that the offences are perpetrated against the individual victim.</p>			

TOOL 3.3 Liability of legal persons

Background

Trafficking offences and associated serious crimes are often committed through or under the cover of legal entities, such as companies or fake charitable organizations. Complex criminal structures can often hide the true ownership, clients or particular transactions related to trafficking. This tool describes the provisions of article 10 of the Organized Crime Convention, which requires the establishment of the liability of legal persons for participation in serious crimes, including trafficking in persons.

Requirements of the Organized Crime Convention

Article 10, paragraph 1, of the Organized Crime Convention requires that all States parties “adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group” and for the offences established in accordance with the Convention itself.

Therefore, the obligation to provide for the liability of legal entities is mandatory, to the extent that this is consistent with each State’s legal principles, in three types of cases:

- Firstly, for the participation in “serious crimes” involving an “organized criminal group”
- Secondly, for other offences established by States parties as required by the Convention itself
- Thirdly, for offences established by any Protocol to which the State is or intends to become a party, including the Trafficking in Persons Protocol

Article 10, paragraph 2, of the Convention also provides that “Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative”.

This is consistent with other international initiatives, which acknowledge and accommodate the diversity of approaches adopted by different legal systems with respect to the liability of legal entities. Thus, there is no obligation to establish “criminal liability”, if that is inconsistent with a State’s legal principles. In such cases, a form of civil or administrative liability will be sufficient to meet the requirement.

Under article 10, paragraph 3, of the Convention the liability of legal entities must be established “without prejudice to the criminal liability of the natural persons who have committed the offences”. The liability of natural persons who perpetrated the acts, therefore, is in addition to any corporate liability and must not be affected at all by the latter. When an individual commits crimes on behalf of a legal entity, it must be possible to prosecute and sanction them both.

Finally, the Convention requires that States “ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions” (art. 10, para. 4). This is a specific provision which complements the more general requirement of article 11, paragraph 1, that sanctions must take into account the gravity of the offence. The investigation and prosecution of transnational organized crimes can be comparatively lengthy. Consequently, States with legal systems providing for statutes of limitation must ensure that the limitation periods for the offences covered by the Convention and the Protocols are compar-

atively long, taking into account and in accordance with their domestic law and fundamental principles (art. 11, para. 5). Whereas the provisions of article 11 apply to both natural and legal persons, those of article 10 apply only to legal persons.

The most frequently used sanction is a fine, which is sometimes characterized as criminal, sometimes as non-criminal and sometimes as a hybrid. Other sanctions include forfeiture, confiscation, restitution, or even closing down of legal entities. In addition, States may wish to consider non-monetary sanctions available in some jurisdictions, such as withdrawal of certain advantages, suspension of certain rights, prohibition of certain activities, publication of the judgement and the appointment of a trustee and direct regulation of corporate structures.

For more details, see the UNODC legislative guides at:
http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html

TOOL 3.4 Criminalizing the laundering of the proceeds of trafficking in persons

Background

A State's national strategy to combat trafficking in persons must include strong confiscation regimes that provide for the identification, freezing, seizure and confiscation of illicitly acquired funds and property. However, organized criminal groups, including those which are involved in human trafficking, may try to avoid confiscation of their illegally gained wealth by disguising the criminal origins of their assets. Criminalizing the laundering of the proceeds of crimes related to human trafficking is an important part of a comprehensive strategy to combat human trafficking. The Organized Crime Convention and the Trafficking in Persons Protocol require States parties to criminalize the laundering of the proceeds of human trafficking offences.

Requirements under the Organized Crime Convention

Article 6 of the Organized Crime Convention requires that each State establish the following four offences relating to money-laundering:

- Conversion or transfer of crime proceeds for the purpose of concealing their illicit origin
- Concealment or disguise of crime proceeds
- Acquisition, possession or use of crime proceeds
- Contributing indirectly to the commission of the offences outlined above, including participation in and conspiring or attempting to commit the offences in question

Predicate offences

A “predicate offence” is an offence whose proceeds may become the subject of any of the money-laundering offences established under the Convention. Many States already have laws on money-laundering, but there are many variations in the definition of predicate offences. Some States limit the predicate offences to drug trafficking, or to drug trafficking and a few other crimes. Other States have an exhaustive list of predicate offences set forth in their legislation. Still other States define predicate offences generically as including all crimes, or all serious crimes, or all crimes subject to a defined penalty threshold.

Article 6, paragraph 2 (*a*), of the Organized Crime Convention requires that the provisions concerning money-laundering are applicable to the “widest range of predicate offences”, including the offences established by the Convention itself and the Protocols to which the State has become a party, as well as all “serious crimes” (art. 6, para. 2 (*b*)) as defined by the Convention.

Other measures to combat money-laundering

Article 7 of the Organized Crime Convention requires States parties to take additional measures. They must:

- Establish a regulatory and supervisory regime for banks and non-bank financial institutions, emphasizing requirements of customer identification, record-keeping and the reporting of suspicious transactions
- Develop the capacity of administrative, regulatory, law enforcement and other authorities to cooperate and exchange information with each other
- Promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities
- Use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering

States parties are also required:

- To consider implementing measures to detect and monitor the movements of cash and negotiable instruments across their borders, such as reporting requirements for substantial cross-border cash transfers
- To promote cooperation among the national authorities established to combat money-laundering

More information

For more information, consult:

- The UNODC legislative guides, at:
http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html

- An Overview of the United Nations Conventions and the International Standards Concerning Anti-Money Laundering Legislation (UNODC, 2004), at: <http://www.imolin.org/imolin/en/research.html>
- United Nations model legislation on laundering, confiscation and international cooperation in relation to the proceeds of crime (1999), at: <http://www.imolin.org/imolin/en/ml99eng.html>

TOOL 3.5 Human rights and anti-trafficking legislation

Background

The United Nations High Commissioner for Human Rights has developed Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), which provide an important framework guiding the criminalization of trafficking in persons and the development of a legislative framework. This tool presents the relevant sections of that document.

Recommended principles

Criminalization, punishment and redress

12. States shall adopt appropriate legislative and other measures necessary to establish, as criminal offences, trafficking, its component acts and related conduct.
13. States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors.
14. States shall ensure that trafficking, its component acts and related offences constitute extraditable offences under national law and extradition treaties. States shall cooperate to ensure that the appropriate extradition procedures are followed in accordance with international law.
15. Effective and proportionate sanctions shall be applied to individuals and legal persons found guilty of trafficking or of its component or related offences.
16. States shall, in appropriate cases, freeze and confiscate the assets of individuals and legal persons involved in trafficking. To the extent possible, confiscated assets shall be used to support and compensate victims of trafficking.
17. States shall ensure that trafficked persons are given access to effective and appropriate legal remedies.

Recommended guidelines

Guideline 4

Ensuring an adequate legal framework

The lack of specific and/or adequate legislation on trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking. There is an urgent need to harmonize legal definitions, procedures and cooperation at the national and regional levels in accordance with international standards. The development of an appropriate legal framework that is consistent with relevant international instruments and standards will also play an important role in the prevention of trafficking and related exploitation.

States should consider:

1. Amending or adopting national legislation in accordance with international standards so that the crime of trafficking is precisely defined in national law and detailed guidance is provided as to its various punishable elements. All practices covered by the definition of trafficking such as debt bondage, forced labour and enforced prostitution should also be criminalized.
2. Enacting legislation to provide for the administrative, civil and, where appropriate, criminal liability of legal persons for trafficking offences in addition to the liability of natural persons. Reviewing current laws, administrative controls and conditions relating to the licensing and operation of businesses that may serve as cover for trafficking such as marriage bureaux, employment agencies, travel agencies, hotels and escort services.
3. Making legislative provision for effective and proportional criminal penalties (including custodial penalties giving rise to extradition in the case of individuals). Where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials.
4. Making legislative provision for confiscation of the instruments and proceeds of trafficking and related offences. Where possible, the legislation should specify that the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking. Consideration should be given to the establishment of a compensation fund for victims of trafficking and the use of confiscated assets to finance such a fund.
5. Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as trafficked persons.
6. Ensuring that the protection of trafficked persons is built into anti-trafficking legislation, including protection from summary deportation or return where there are reasonable grounds to conclude that such deportation or return

would represent a significant security risk to the trafficked person and/or her/his family.

7. Providing legislative protection for trafficked persons who voluntarily agree to cooperate with law enforcement authorities, including protection of their right to remain lawfully within the country of destination for the duration of any legal proceedings.
8. Making effective provision for trafficked persons to be given legal information and assistance in a language they understand as well as appropriate social support sufficient to meet their immediate needs. States should ensure that entitlement to such information, assistance and immediate support is not discretionary but is available as a right for all persons who have been identified as trafficked.
9. Ensuring that the right of trafficking victims to pursue civil claims against alleged traffickers is enshrined in law.
10. Guaranteeing that protections for witnesses are provided for in law.
11. Making legislative provision for the punishment of public sector involvement or complicity in trafficking and related exploitation.

Where to find the Recommended Principles and Guidelines on Human Rights and Human Trafficking: http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf



chapter 4

INTERNATIONAL CRIMINAL JUSTICE COOPERATION

The fight against criminal organizations involved in human trafficking calls for broad, multi-agency, flexible and cooperative approaches both nationally and internationally. The shortcomings of national systems working alone and of existing cooperation patterns have been exposed in many States. It is a fact that some of the best results in the prosecution of trafficking in persons have been obtained when the law enforcement and prosecution agencies have been able to work together effectively, both locally and across borders.

The Organized Crime Convention provides a framework for international cooperation in combating organized crime in general and trafficking in persons specifically. The implementation of the Convention by States parties removes most of the obstacles that have so far prevented them from collaborating more efficiently.

Bilateral, regional and global agreements reflect the realization that transnational crimes can be addressed effectively only through collaboration from the States involved or affected. International conventions on particular offences, such as drug trafficking, terrorism, corruption and money-laundering have paved the ground for further coordination of efforts and stronger collaboration between States.

The most pressing need is for a more integrated and synchronized approach with effective enforcement mechanisms, which must be espoused as widely as possible. This is what the Convention is meant to address. Its purpose is to promote cooperation both for the prevention and the effective fight against transnational organized crime.

EXTRADITION

Perpetrators of transnational crimes may be in a different State or may flee a State to avoid prosecution. Extradition proceedings are then required to bring them to justice in the prosecuting State.

Extradition is a formal and, most frequently, a treaty-based process, leading to the return or delivery of fugitives to the jurisdiction in which they are wanted. In the early days of extradition practice, the delivery of a requested person to the requesting sovereign was usually based on pacts or treaties, but it also occurred on the basis of reciprocity and comity (as a matter of courtesy and good will between sovereigns). Since the late nineteenth century, States have signed bilateral extradition treaties in their efforts to remove safe havens for serious offenders. Treaty provi-

sions vary considerably from State to State, thus being conducive to lack of uniformity in extradition practice.

In the past, treaties commonly contained a list of offences covered, which created difficulties every time a new type of crime emerged with the advancement of technology and other social and economic changes.¹⁰ For this reason, more recent treaties are based on the principle of dual criminality, which applies when the same conduct is criminalized in both the requesting and requested States and the penalties provided for it are above a defined threshold (e.g. one year of deprivation of liberty).¹¹

In this way, authorities do not have to constantly update their treaties for the coverage of unanticipated and entirely new offences. This generated the need for the adoption by the United Nations General Assembly of a Model Treaty on Extradition (Assembly resolution 45/116, as amended by resolution 52/88), which offers a set of concise options to be used by interested States for negotiating their extradition treaties.

However, just as States are busy amending their sometimes quite old treaties and signing new ones, some conventions on specific offences contain provisions for extradition, as well as jurisdiction and mutual assistance. One such example is the Organisation for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.¹²

In addition, the need for a multilateral approach has led to several regional initiatives, such as the European Convention on Extradition (1957)¹³ and its two Additional Protocols (1975 and 1978),¹⁴ the Inter-American Convention on Extradition

¹⁰Experience with the elaboration and application of exhaustive lists of extraditable offences has revealed a number of deficiencies. One relates to the choice of offences and their exact definition, which has proved to be very difficult, in particular between States with different legal systems. The most significant shortcoming, however, is that such a system requires a permanent need to update the lists of offences in accordance with the emergence of new criminal conduct. Where this updating is not achieved, the list-of-offences approach excludes from coverage even offences that may have subsequently been penalized in both States. For this reason, the “eliminative method”, which specifies as extraditable those offences which, under the laws of both States, are punishable by an agreed degree of severity, has gradually become the prevailing one in extradition practice, as it is more convenient for avoiding unnecessary detail while negotiating the treaty and obviating potential omission of certain crimes.

¹¹Whichever system is being used to determine extraditable offences, the rule of double criminality is always required. Thus, the offence for which extradition is requested should not only be extraditable, but also constitute a crime under the criminal laws of both the requested and the requesting State. The double criminality principle intends to ensure that each of the respective States can rely on corresponding treatment, and that no States shall use its processes to surrender a person for conduct that it does not characterize as criminal. Moreover, extradition itself is usually connected with the employment of coercive measures, particularly deprivation of liberty, and it would be inconsistent to use such measures on a person who would not be punished in the requested State. It should be noted that the new surrender of fugitives procedure within the European Union, established by the Council Framework Decision on the European Arrest Warrant (2002), intends to further streamline and accelerate the relevant proceedings among the Member States, by, inter alia, abolishing the double criminality requirement for a list of 32 offences, including trafficking in human beings.

¹²Organisation for Economic Cooperation and Development, document DAF/IME/BR(97)20.

¹³United Nations, *Treaty Series*, vol. 359, No. 5146.

¹⁴Council of Europe, *European Treaty Series*, Nos. 86 and 98, respectively.

(1981),¹⁵ the Economic Community of West African States Convention on Extradition (1994), the Convention on Simplified Extradition Procedure between the Member States of the European Union (1995),¹⁶ the Convention relating to Extradition between the Member States of the European Union (1996)¹⁷ and others.

Apart from the ad hoc regional conventions on extradition, other multilateral instruments that include specific provisions on extradition have been adopted. See, for example, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,¹⁸ the 2003 United Nations Convention against Corruption (General Assembly resolution 58/4, annex) and the international instruments against terrorism.¹⁹

The Organized Crime Convention sets a basic minimum standard for extradition for the offences it covers and also encourages the adoption of a variety of mechanisms designed to streamline the extradition process. Generally, the extradition provisions are designed to ensure that the Convention supports and complements pre-existing extradition arrangements and does not detract from them.²⁰

To implement the extradition provisions of the Organized Crime Convention, depending on the extent to which domestic law and existing treaties already deal with extradition, States may need to review and amend their legislation or even establish an entirely new extradition framework. In making legislative changes, drafters should note that the intention of the Convention is to ensure the fair treatment of those whose extradition is sought and the application of all existing rights and guarantees applicable within the jurisdiction of the State party from whom extradition is requested. States parties to the Trafficking in Persons Protocol and to the Migrants Protocol must ensure that their laws deem extraditable the offences established by these Protocols.

MUTUAL LEGAL ASSISTANCE

In a large number of cases of human trafficking, national authorities need the assistance of other States for the successful investigation, prosecution and punishment of offenders, in particular those who have committed transnational offences. The ability to assert jurisdiction and secure the presence of an accused offender in its territory accomplishes an important part of the task, but does not complete it.

¹⁵United Nations, *Treaty Series*, vol. 1752, No. 30597.

¹⁶*Official Journal of the European Communities*, C 078, 30 March 1995.

¹⁷*Ibid.*, C 313, 23 October 1996.

¹⁸United Nations, *Treaty Series*, vol. 1582, No. 27627.

¹⁹For a brief overview of the international instruments against terrorism, visit the UNODC website at: http://www.unodc.org/unodc/terrorism_conventions.html

²⁰However, and always subject to the dual criminality requirement, the extradition obligation also applies in cases where these offences involve an organized criminal group and the person whose extradition is requested is simply located in the territory of the requested State. In these cases it is not necessary to establish transnationality of the criminal conduct.

The international mobility of offenders and the use of advanced technology, among other factors, make it more necessary than ever that law enforcement and judicial authorities collaborate and assist the State that has assumed jurisdiction over the matter.

In order to achieve this goal, States have enacted laws to permit them to provide such international cooperation and increasingly have resorted to treaties on mutual legal assistance in criminal matters.

These instruments can enhance law enforcement in several ways. They enable authorities to obtain evidence abroad in a way that it is admissible domestically. They supplement other arrangements on the exchange of information (for example obtained through the International Criminal Police Organization (Interpol), police-to-police relationships, and judicial assistance/letters rogatory). They also resolve certain complications between States with different legal traditions, some of which restrict assistance to judicial authorities rather than prosecutors.

The Organized Crime Convention builds upon a number of previous global and regional initiatives to develop multilateral treaties. It calls for the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings. The extraditable offences ought to include transnational “serious crimes” involving an organized criminal group, the offences established under the Organized Crime Convention itself, and offences established under any Protocols thereto that States become party to.²¹

Legal assistance may be requested for taking evidence or statements, effecting service of judicial documents, executing searches and seizures, examining objects and sites, providing information, evidence and expert evaluations, documents and records, tracing proceeds of crime, facilitating the appearance of witnesses, and any other kind of assistance not barred by domestic law. It also applies to international cooperation regarding the identification, tracing and seizure of proceeds of crime, property and instrumentalities for the purpose of confiscation (see art. 13 of the Convention).

The Convention recognizes the diversity of legal systems and does allow States to refuse mutual legal assistance under certain conditions (see art. 18, para. 21). However, it makes it clear that assistance cannot be refused on grounds of bank secrecy (art. 18, para. 8) or for offences considered to involve fiscal matters (art. 18, para. 22). States are required to provide reasons for any refusal to assist. Otherwise, States must execute requests expeditiously and take into account possible deadlines facing the requesting authorities (such as expiration of statutes of limitation).

²¹In addition, States parties are also obliged to “reciprocally extend to one another similar assistance” where the requesting State has “reasonable grounds to suspect” that one or some of these offences are transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State party and that they involve an organized criminal group.

OTHER FORMS OF COOPERATION

A formal mutual legal assistance request is not always necessary in order to obtain assistance from another State. Reliance on formal mutual legal assistance arrangements is often limited to instances where coercive measures are needed. This is because coercive measures normally require judicial authority. Several other forms of less formal international cooperation can also be very effective.

The Organized Crime Convention provides for a number of other mandatory and non-mandatory mechanisms to facilitate both international judicial cooperation²² and international law enforcement cooperation.²³

In terms of international law enforcement cooperation, States parties must consider bilateral or multilateral agreements or arrangements to give effect to law enforcement assistance obligations, whereby joint investigative bodies may be established. States parties must also cooperate closely with one another to enhance the effectiveness of law enforcement action to combat organized crime, including human trafficking.

Furthermore, they must endeavour to cooperate in order to respond to transnational organized crime committed by use of modern technology.

²²See article 17 on transfer of sentenced persons and article 21 on transfer of criminal proceedings.

²³See article 19 on joint investigations and article 27 on law enforcement cooperation.

TOOL 4.1 Extradition treaty

Background

Steps must be taken to ensure that the offence of trafficking, its constitutive acts and related offences are extraditable under national law and extradition treaties. Extradition is a formal and, most frequently, a treaty-based process, leading to the return or delivery of fugitives to the jurisdictions in which they are wanted. Because of the very nature of trafficking, many of the offenders wanted for prosecution in relation to human trafficking activities will be in other States. This tool introduces the reader to the Model Treaty on Extradition (General Assembly resolution 45/116, annex, as amended by resolution 52/88, annex).

Model Treaty

The Model Treaty on Extradition was developed as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving cooperation in matters of crime prevention and criminal justice.

The Model Treaty on Extradition can be downloaded at:
http://www.unodc.org/unodc/en/legal_advisory_tools.html

See also:

The Inter-American Convention on Extradition, which can be downloaded at:
[http://www.oas.org/juridico/english/treaties/b-47\(1\).html](http://www.oas.org/juridico/english/treaties/b-47(1).html)

The European Convention on Extradition, which can be downloaded at:
<http://conventions.coe.int/Treaty/EN/Treaties/Html/024.htm>

The two Additional Protocols to the European Convention on Extradition, which can be downloaded at: <http://conventions.coe.int/Treaty/en/Treaties/Html/086.htm> and <http://conventions.coe.int/Treaty/en/Treaties/Html/098.htm>

The Council of the European Union framework decision 2002/584/JHA on the European arrest warrant and the surrender procedures between member States can be downloaded at:
http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_190/l_19020020718en00010018.pdf

The Economic Community of West African States Convention on Extradition (1994) can be downloaded at:
http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/ecowas/4ConExtradition.pdf

The existence of national legislation may also be important as a procedural or enabling framework in order to support the implementation of existing extradition treaties or arrangements or, in the absence of a treaty, as a supplementary legal framework for surrendering fugitives to the requesting State. In view of that, UNODC has elaborated a model law on extradition to assist interested States in drafting or amending domestic legislation in this field. For more information, please consult: http://www.unodc.org/unodc/en/legal_advisory_tools.html

TOOL 4.2 Seizure of assets and confiscation of proceeds of crime

Background

When criminals are involved in human trafficking, the assets they used to commit the crime, as well as the proceeds gained from the trafficking activities, can often be found in a State other than the one in which the offence is detected or committed. Specific international cooperation mechanisms are necessary to enable States to give effect to freezing and confiscation orders and to provide for the most appropriate use of confiscated proceeds and property. This tool describes the provision of the Organized Crime Convention relating to the confiscation and seizure of proceeds of crime.

Organized Crime Convention

Criminalizing trafficking in human beings and related offences is insufficient to deter organized criminal groups. Even if arrested and convicted, some of these offenders will be able to enjoy their illegal gains for their personal use and for maintaining the operations of their criminal enterprises. Despite some sanctions, the perception would still remain that “crime pays” in such circumstances and that Governments have been ineffective in removing the means for continued activities of criminal groups.

Practical measures to keep offenders from profiting from their crimes are necessary. One of the most important ways to do this is to ensure that States have strong confiscation regimes that provide for the identification, freezing, seizure and confiscation of illicitly acquired funds and property. Specific international cooperation mechanisms are also necessary to enable States to give effect to foreign freezing and confiscation orders and to provide for the most appropriate use of confiscated proceeds and property.

There is substantial variation in the methods and approaches employed by different legal systems. Some opt for a “property based” system, others for a “value based” system, while still others combine the two. The first one allows confiscation of property found to be proceeds or instrumentalities (used for the commission) of crime. The second allows the determination of the value of proceeds and instrumentalities of crime and the confiscation of an equivalent value. Some States allow for value confiscation under certain conditions (e.g. the proceeds have been used, destroyed or hidden by the offender).

How a confiscation must be authorized and executed, what can be confiscated and how much proof is required to establish a link between a certain property and crime are all matters that vary considerably among States. This, in turn, often renders international cooperation in relation to assets forfeiture and confiscation of proceeds of crime much more difficult.

The need for integration and a more global approach is clear. To this end, the Organized Crime Convention devotes three articles to the issue. Articles 12, 13 and 14 cover domestic and international aspects of identifying, freezing and confiscating the proceeds and instrumentalities of crime. The terms “property”, “proceeds of crime”, “freezing”, “seizure”, “confiscation” and “predicate offence” are defined in article 2 of the Convention.

Article 12 requires a State party to adopt measures, to the greatest extent possible within its legal system, to enable confiscation of proceeds, equivalent value of proceeds and instrumentalities of offences covered by the Convention. It also obligates each State party to adopt measures to enable the identification, tracing, freezing and seizing of items for the purpose of eventual confiscation. In addition, it obligates each State party to empower courts or other competent authorities to order production of bank records and other evidence for purposes of facilitating such identification, freezing and confiscation.

Article 13 then sets forth procedures for international cooperation in confiscation matters. These are important powers, as criminals frequently seek to hide proceeds and instrumentalities of crime abroad, as well as evidence relating thereto, in order to thwart law enforcement efforts to locate and gain control over them. A State party that receives a request from another State party is required by the article to take specific measures to identify, trace, and freeze or seize proceeds of crime for purposes of eventual confiscation. Article 13 also describes the manner in which such requests are to be drafted, submitted and executed.

Finally, article 14 addresses the final stage of the confiscation process: the disposal of confiscated assets. While disposal is to be carried out in accordance with domestic law, States parties are called upon to give priority to requests from other States parties for the return of such assets for use as compensation to crime victims or restoration to legitimate owners.²⁴ States parties are also encouraged to consider concluding an agreement or arrangement whereby proceeds may be contributed to the United Nations to fund technical assistance activities under the Organized Crime Convention or be shared with other States parties that have assisted in their confiscation.

See also the UNODC legislative guides at:

http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html

²⁴For more information on restitution and compensation for victims, please see tool 8.9.

TOOL 4.3 Mutual legal assistance

Background

Because human trafficking is an offence that frequently occurs across borders, States must take steps to ensure that they can cooperate and assist each other in the investigation, prosecution and punishment of offenders. The international mobility of offenders and the use of advanced technology, among other factors, make it more necessary than ever that law enforcement and judicial authorities collaborate and assist the State that has assumed jurisdiction over the matter. In order to achieve this goal, States have enacted laws to permit them to provide such international cooperation and increasingly have resorted to treaties on mutual legal assistance in criminal matters. This tool introduces the United Nations Model Treaty on Mutual Assistance in Criminal Matters, refers the reader to various conventions and outlines promising practices on mutual legal assistance.

Model Treaty on Mutual Assistance in Criminal Matters

The Model Treaty on Mutual Assistance in Criminal Matters was adopted by the United Nations General Assembly in its resolution 45/117 and was subsequently amended by the General Assembly in its resolution 53/112. It is intended to be used as a tool by States in the negotiation of bilateral instruments of this nature, thus enabling them to cope more effectively with criminal cases that have transnational implications.

The United Nations Model Treaty on Mutual Assistance in Criminal Matters can be downloaded at:

http://www.unodc.org/unodc/en/legal_advisory_tools.html

See also:

The Inter-American Convention on the Taking of Evidence Abroad, which can be downloaded at:

<http://www.oas.org/juridico/english/treaties/b-37.htm>

The Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad can be downloaded at:

<http://www.oas.org/juridico/english/treaties/b-51.htm>

The Inter-American Convention on Mutual Assistance in Criminal Matters can be downloaded at:

<http://www.oas.org/juridico/english/Treaties/a-55.html>

The Optional Protocol related to the Inter-American Convention on Mutual Assistance in Criminal Matters can be downloaded at:

<http://www.oas.org/juridico/english/treaties/A-59.htm>

The European Convention on Mutual Assistance in Criminal Matters can be downloaded at:

<http://conventions.coe.int/Treaty/en/Treaties/Html/030.htm>

The two Additional Protocols to the European Convention on Mutual Assistance in Criminal Matters can be downloaded at:

<http://conventions.coe.int/Treaty/en/Treaties/Html/099.htm>

and <http://conventions.coe.int/Treaty/en/Treaties/Html/182.htm>

The Economic Community of West African States Convention on Mutual Assistance in Criminal Matters (1992).

In some instances, national legislation must also be reviewed and amended to facilitate international cooperation and the use of foreign evidence in order to fully benefit from mutual legal assistance efforts. The United Nations model foreign evidence bill (2000) is a useful tool for doing so. The model bill is available at the UNODC website: http://www.unodc.org/pdf/lap_foreign-evidence_2000.pdf

UNODC is currently developing a model law on mutual legal assistance that could be used as a tool for the effective implementation of mutual legal assistance treaties or as a self-standing legal basis for affording assistance in criminal matters to a foreign State.

Promising practices

An increase in successful investigations, prosecutions and judicial proceedings against traffickers demands the successful use of requests for legal assistance from other States. Such requests can be sent in three different ways:

- By way of diplomatic channels where no agreements exist between the relevant States
- By channels established in bilateral agreements
- By channels established in multilateral agreements or conventions

Currently, the general situation is that such requests are not playing the important role that they should in trafficking cases, even in the cases where agreements on mutual legal assistance exist. A common problem is the slowness with which such requests go through the relevant administrative and legal channels, including translation services. Other problems include poor quality in the drafting of such requests, thus leaving an unclear picture of what actions are requested and resulting in delays in getting the accurate information.

States must identify which States are important partners in trafficking cases, enter into agreements with those States and review existing agreements. All entities involved should consider trafficking cases as a high priority, demanding rapid and proper treatment. Improvements can be made within existing agreements.

Examples of promising practices

Many States have developed a liaison capacity to support judicial cooperation, in particular with respect to various forms of transnational crime and organized criminal activities. It is possible to include in such arrangements, in particular among States between which human trafficking is known to occur frequently, the presence of officers specialized in trafficking in persons and smuggling of migrants. The posting of liaison officers has proved to be a very efficient way of increasing cooperation and should be encouraged. This important tool is being used in several ways by different States since regional liaison networks have the potential to be more cost-effective when compared to bilateral networks.

Eurojust

The Eurojust initiative is an example of a way of supporting existing regional structures. The European Union has established a liaison network of prosecutors (Eurojust) in order to deal more efficiently with cross border crime, in particular crime committed by organized transnational criminal groups. Each member State nominates one prosecutor to join the Eurojust Unit, which is based in The Hague.

- Eurojust stimulates and improves the coordination of investigations and prosecutions between competent authorities in the European Union member States.
- Eurojust takes into account any request emanating from a competent authority of a member State and any information provided by any body competent by virtue of provisions adopted within the framework of the treaties.
- Eurojust improves cooperation between the competent authorities of the member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests.
- Eurojust supports the competent authorities of the member States in order to render their investigations and prosecutions more effective when dealing with cross border crime.

By achieving these objectives, Eurojust enhances cooperation and coordination between national investigating and prosecuting authorities allowing all law enforcement agencies to act more effectively, both individually and collectively, when dealing with international crime and more importantly to bring criminals to justice more quickly.

In addition, a European Judicial Network has been set up in order to promote and accelerate cooperation in criminal matters, paying particular attention to the fight against transnational organized crime, including trafficking in human beings. The contact points in this Network function as active intermediaries with the task of facilitating judicial cooperation between the member States. They also provide the necessary legal and practical information to the local judicial authorities in their own countries, as well as to the contact points and local judicial authorities in other countries, in order to enable them to prepare an effective request for judicial cooperation and improve or coordinate judicial cooperation in general.

See <http://www.eurojust.eu.int/> and <http://www.ejn-crimjust.eu.int/>

European liaison magistrates

At the European Union level, a framework has been created for the exchange of liaison magistrates to improve judicial cooperation between the member States

(continued)

Examples of promising practices *(continued)*

of the Union. The tasks of the liaison magistrates comprise any activity designed to encourage and accelerate all forms of judicial cooperation in criminal matters, in particular by establishing direct links between relevant departments and judicial authorities in order to facilitate mutual legal assistance. Under arrangements agreed between the home and the host member States, the tasks of liaison magistrates may also include any activity connected with handling the exchange of information and statistics designed to promote mutual understanding of the legal systems of the States concerned and to further relations between the legal professions in each of those States.

European Police Office

The European Police Office (Europol) handles criminal intelligence. Its aim is to improve the effectiveness and cooperation between the competent authorities of the member States in preventing and combating serious international organized crime. The mission of Europol is to make a significant contribution to the European Union's law enforcement action against organized crime, with an emphasis on targeting criminal organizations.

See <http://www.europol.eu.int/>

Liaison officers

The United Kingdom has developed a network of overseas liaison officers specializing in organized immigration crime, including human trafficking. This network has been introduced to develop and sustain joint working with overseas partners.

Law enforcement contacts

The Group of Eight maintains a network of international law enforcement contacts available around the clock to respond to crimes and acts of terrorism using or targeting networked computer systems. The Group sponsors training for the points of contact participating in the network. The Group also regularly provides participating States with an updated network directory.

Southeast European Cooperative Initiative Regional Centre for Combating Transborder Crime

The Southeast European Cooperative Initiative (SECI) brings together 11 States in the Balkan region in an effort to combat organized crime. At the SECI Regional Centre in Bucharest, liaison officers from police and customs are gathered to facilitate information exchange between law enforcement agencies in the participating States. Requests for regional assistance are sent to the Centre from the national office of each individual State through its liaison officer, who then disseminates them to the appropriate State liaison officers.

Nordic liaison network

The Nordic States in Europe (Denmark, Finland, Iceland, Norway and Sweden) have established a unique liaison network. Each separate State sends liaison officers from police or customs abroad and they work on behalf of all the Nordic States. They work mainly in origin States where there is production or transit of drugs, or where the State is important in the operations of other forms of organized crime. The officers are normally stationed at the relevant embassy of the sending Nordic State. They supply information to police and customs agencies in all the Nordic States and support their host States with information.

Cooperation on information sharing

Collecting, exchanging and analysing information on organized criminal networks is a fruitful approach to addressing trafficking in persons. Article 10 of the Trafficking in Persons Protocol lays down the general obligation to cooperate with other States parties, which requires the sharing of information about a range of relevant matters, including:

- Identification of possible victims and/or traffickers in transit
- information about the various means used by offenders, including the misuse of travel or identity documents

As with similar elements of the Organized Crime Convention (art. 28), the sharing of information raises some concerns about confidentiality. The obligation to share is limited to such sharing as is in accordance with domestic law. States that receive information are obliged to comply with any restrictions placed on the use of the information by the sending State party. Generally, this may include both restrictions on the cases or types of cases in which the information could be used as evidence, as well as more general restrictions intended to prevent disclosure to the public or potential criminal suspects.

To initiate the process of information-sharing, law enforcement agencies should find relevant partners in other States and start joint analytical projects on the criminal groups involved in trafficking. This is a good way to build trust between law enforcement agencies that might have little experience in working together. By exchanging targeted information within a predetermined time frame and then attempting to identify criminal groups that can be the object of more focused intelligence exchange or investigative measures, one can work to unravel criminal networks while building contacts and increasing the level of mutual trust. A key recommendation is to limit the scope of the project from the start and gradually increase the scope of the information gathering and analysis as the cooperation develops. When the results start appearing, it will be time for discussions of future responsibilities and division of work.

In Europe there is a project between two origin States and one destination State that focuses on identifying the criminals that traffic women from a certain origin State. Detailed information is exchanged between intelligence units in an ongoing and dynamic way. The intelligence units link up with relevant investigative teams in their States. The results are more focused investigations, both in the States of origin targeting the recruiters and in the destination State, which targets the traffickers, brothel owners and exploiters.

Expanding contacts between investigators

States must take steps to allow their law enforcement officers to communicate with and meet partners in other States. Several international, regional or multilateral organizations are now putting a strong focus on trafficking crimes and bringing together practitioners to discuss common problems.

On the global level, Interpol has established an international Working Group on Trafficking in Women for Sexual Exploitation. This group is open to law enforcement representatives from any of the 182 member States of Interpol. The aim of the group is to promote law enforcement cooperation, raise awareness and develop best practices concerning crimes linked to trafficking in women for sexual exploitation. During meetings of the group, attended by participants from around 50 States, presentations are given on specific cases being investigated and on recent developments concerning legislation, victim protection and police methods. Valuable contacts between investigators are established during the work of the group.

Europol and other law enforcement agencies also organize meetings to discuss trends and methods in trafficking. States must make sure that they are represented at relevant meetings.

Cooperation during investigations

The need for assistance from law enforcement agencies in other States appears in the majority of investigations into trafficking in persons. There is frequently a need to identify and take evidence from victims living or staying in other States or to gather information to verify and support statements taken from witnesses. Conditions must, therefore, be generated that allow investigators to take a broad approach to trafficking investigations, using all possible ways of gaining assistance from other States. Investigators must be encouraged to develop contacts with other States.

Requests for assistance can always be channelled through the Interpol communications system. The 182 member States of Interpol are linked through their National Central Bureaux. These departments are set up in each State to serve as the permanent focal point for international police cooperation. Local law enforcement agencies pass their requests to their Bureau, who transmit them in a secure and rapid way to the relevant State.

See <http://www.interpol.int/>

Requests for cooperation in trafficking cases can concern information addressing all aspects of the crime, typically the identity, whereabouts and activities of persons involved as suspects, victims or witnesses. Specific requests might concern checks on vehicles, telephone numbers, addresses and passports or other documents used by involved persons. The results of such information exchange can lay the foundation for later formal requests for legal assistance.

TOOL 4.4 Mutual assistance requests

Background

Mutual assistance requests often need to be generated at very short notice and in such a way as to avoid legal pitfalls and obstacles to cooperation. This tool introduces a checklist for facilitating the request process.

Checklist for mutual legal assistance requests

The request should include the following:

- **Identification**
Identification of the office/authority presenting or transmitting the request and the authority conducting the investigation, prosecution or proceedings in the requesting State, including contact particulars for the office/authority presenting or transmitting the request and, unless inappropriate, the contact particulars of the relevant investigating officer/prosecutor and/or judicial officer (form I).
- **Prior contact**
Details of any prior contact between officers in the requesting and requested States pertaining to the subject matter of the request.
- **Use of other channels**
Where a copy of the request has been or is being sent through other channels, this should be made clear in the request.
- **Acknowledgement of the request**
A cover sheet incorporating the acknowledgement for completion and return to the requesting State.
- **Indication of urgency and/or time limit**
A prominent indication of any particular urgency or applicable time limit within which compliance with the request is required and the reason for the urgency or time limit.
- **Confidentiality**
A prominent indication of any need for confidentiality and the reason therefore and the requirement to consult with the requesting State, prior to the execution, if confidentiality cannot be maintained.
- **Legal basis for the request**
A description of the basis upon which the request is made, e.g. bilateral treaty, multilateral convention or scheme or, in the absence thereof, on the basis of reciprocity.
- **Summary of the relevant facts**
A summary of the relevant facts of the case including, to the extent possible, full identification details of the alleged offender(s).

- **Description of the offence and applicable penalty**
A description of the offence and applicable penalty, with an excerpt or copy of the relevant parts of the law of the requesting State.
- **Description of the evidence/assistance requested**
A description in specific terms of the evidence or other assistance requested.
- **Clear link between proceeding(s) and evidence/assistance sought**
A clear and precise explanation of the connection between the investigation, prosecution or proceedings and the assistance sought (i.e. a description of how the evidence or other assistance sought is relevant to the case).
- **Description of the procedures**
A description of the procedures to be followed by the requested State's authorities in executing the request to ensure that the request achieves its purpose, including any special procedures to enable any evidence obtained to be admissible in the requesting State, and reasons why the procedures are required.
- **Presence of officials from the requesting State in execution of request**
An indication as to whether the requesting State wishes its officials or other specified persons to be present at or participate in the execution of the request and the reason why this is requested.
- **Language**
All requests for assistance should be made in or accompanied by a certified translation into a language as specified by the requested State.

Note: Where it becomes evident that a request or the aggregate of requests from a particular State involve a substantial or extraordinary cost, the requesting and requested States should consult to determine the terms and conditions under which the request is to be executed and the manner in which the costs are to be borne.

Mutual legal assistance request writer tool

UNODC has developed a mutual legal assistance request writer tool to help practitioners streamline the process. The computer-based tool is user friendly, easily adjustable to a State's substantive and procedural law and practices and requires virtually no prior knowledge of or experience with mutual legal assistance.

It guides the user step by step through the request process for each type of mutual assistance, using on-screen templates. The tool prompts users when they have omitted to include vital information, before they progress from one screen to the next in order to avoid incomplete requests and minimize risks of delay or refusal. When data entry is finished, the tool consolidates all data and then automatically drafts a correct, complete and effective request (in Microsoft Word) for final proofing and signature. The tool exists in English, French, Russian and Spanish.

TOOL 4.5 International law enforcement cooperation

Background

Investigations of human trafficking networks and offences can be quite complex, in particular when they must be conducted, as they often must, across borders. Ensuring effective cooperation between law enforcement agencies in different States must therefore be part of any strategy to address the problem of human trafficking. This tool introduces the reader to article 27 of the Organized Crime Convention, which requires States parties to develop closer law enforcement cooperation between themselves, including the exchange of information, cooperation in the identification of offenders, cooperation in tracking the movement of property and offenders and cooperation in locating victims and witnesses of trafficking.

Article 27 of the Organized Crime Convention

Under article 27 of the Organized Crime Convention, a State party, consistent with its respective domestic legal and administrative system, must:

- Adopt effective measures for purposes of effective investigation with respect to the offences established by the Convention, including:
 - (a) Enhance and, where necessary, establish channels of communication between respective law enforcement agencies;
 - (b) Cooperate with other States parties in their inquiries concerning:
 - (i) The identity, whereabouts and activities of particular persons;
 - (ii) The movement of proceeds or property derived from the commission of offences, and of property, equipment and other instrumentalities used or intended for use in the commission of offences;
 - (c) Provide, when appropriate, items and substances for analytical or investigative purposes.
- Consider bilateral or multilateral agreements or arrangements to give effect to or enhance the provisions of article 27 of the Convention
- Endeavour to cooperate in order to respond to transnational organized crime committed by use of modern technology.

Channels of law enforcement cooperation

In the majority of jurisdictions, it is possible to rely on two channels of cooperation:

- International cooperation involving operational police assistance prior to any judicial proceedings being in place. In these instances, the necessary arrangements can usually be made between the relevant police agencies without reference to mutual legal assistance laws.
- International cooperation based upon formal “letters of request” made after judicial proceedings have been commenced or where an official investigation is under way.

In the first instance, it may be necessary to understand who has the authority to consider the request that is being made and authorize the required activities to provide assistance, e.g. the deployment of surveillance resources, permission to conduct controlled deliveries, or use of interception techniques. It may or may not be within the authority of the head of the relevant investigative unit to authorize such activity. In many instances, the activity may still require the consent of the relevant prosecutor or examining magistrate.

Within the second category, the request may address the need for a warrant to enter and search premises or the desire to interview witnesses, secure and exhibit documents, or interview a prisoner. In this type of case, the procedure is regulated by the letter of request system.

Direct bilateral or multilateral contact

In many jurisdictions, direct contacts between investigators are not encouraged or even permitted. This is often because of a desire to centralize and standardize the response through a central point, usually located within some form of national criminal intelligence agency.

Direct bilateral or multilateral contacts between investigators allow them to speak directly to colleagues who are engaged in the same type of work. Such contacts allow for the conduct of enquiries in real time and enables the investigator to establish the existence of facts before seeking formal access to evidence by way of letters of request or letters rogatory.

However, there are also some potential drawbacks to this approach. Jurisdictional breaches of procedure can occur, other operations may inadvertently be compromised by an informal request, and the ability of the agencies concerned to identify some broader crime patterns may be diminished.

In the case of particularly urgent enquiries or requests, law enforcement contacts can be established through the normal Interpol channels. Urgent cases are generally those where:

- There is a serious risk to the safety of an existing, outstanding or potential victim or that person's family.
- There is a serious risk that the suspect(s) would escape justice.
- There is a serious risk that vital evidence would be irretrievably lost.
- There is a serious risk that the ability to identify and sequester criminal assets would be irretrievably compromised.

In each case, the requesting investigator would have to be able to demonstrate to the Interpol National Central Bureaux staff why any of the risks listed above were present. In these cases, the enquiries or requests would be recorded and disseminated in the normal way.

TOOL 4.6 Bilateral and multilateral cooperation agreements or arrangements

Background

The Organized Crime Convention encourages States parties to consider bilateral or multilateral agreements or arrangements to give effect to their law enforcement or judicial assistance obligations in investigating, prosecuting and trying human traffickers. Bilateral or multilateral agreements and arrangements reflect the realization that transnational crimes, including human trafficking, can be addressed effectively only through collaboration of law enforcement and judicial agencies. This tool provides examples on promising practices.

Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region

In October 2004, a memorandum of understanding was signed by the Coordinated Mekong Ministerial Initiative against Trafficking. After a year of negotiations, ministerial representatives from Cambodia, China, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam signed the comprehensive memorandum of understanding and committed themselves to taking joint action to combat all aspects of trafficking in persons. It is the first of its kind in the Asia-Pacific region and it clearly lays out methods and areas of policy and cooperation at both national and international levels in legal frameworks, law enforcement, criminal justice, protection, recovery and reintegration of victims and preventive measures.

In the areas of legal framework, law enforcement and justice the six States have committed to:

- Quickly adopting and enforcing appropriate legislation against trafficking in persons
- Providing training to officials to permit the rapid and accurate identification of trafficked persons
- Developing efficient cooperation in the criminal justice system
- Strengthening cross-border cooperation in law enforcement among the six States to combat trafficking through the criminal justice process
- Providing the necessary personnel and budgetary support for trafficking response capacities within national law enforcement authorities
- Promoting bilateral or multilateral agreements among the participating States to assist each other in the judicial process

The memorandum of understanding can be found at:

http://www.humantrafficking.org/collaboration/regional/eap/news/2004_10/commit_mou.pdf

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

The Bali Process is a regional initiative to advance practical cooperation in the Asia-Pacific region. The process started in 2002 with representatives from 38 States within the Asia-Pacific region attending the first conference. Fifteen observer States from outside the region also participated.

The specific objectives of the Bali Process are:

- To develop more effective information and intelligence sharing between participating States
- To improve cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks
- To enhance cooperation on border and visa systems to detect and prevent illegal movements
- To increase public awareness
- To enhance effectiveness of return as a strategy to deter people smuggling and trafficking
- To increase cooperation in verifying the identity and nationality of illegal migrants and trafficking victims
- To promote the enactment of national legislation to criminalize people smuggling and trafficking in persons
- To provide appropriate protection and assistance to victims of trafficking, in particular women and children
- To tackle the root causes of illegal migration, including by increasing opportunities for legal migration between States
- To assist countries to adopt best practices in asylum management, in accordance with the Convention relating to the Status of Refugees

The Process is not meant to duplicate other work under way on related issues either at the bilateral or the regional level. Trafficking in persons is still an area of concern and the focus of a future streamlined programme of action has been recommended with a focus on the following areas: (a) regional law enforcement cooperation, including border controls; (b) regional training for law enforcement officers in dealing with the victims of trafficking and in combating trafficking; (c) public awareness of people smuggling and trafficking; (d) child sex tourism; (e) mutual assistance and extradition; (f) development of policy and/or legislation on lost and stolen passports; and (g) targeting people smugglers and traffickers.

See <http://www.baliprocess.net>

Memorandum of understanding between Nigeria and Italy

Technical assistance was provided by UNICRI and UNODC as part of a programme of action against trafficking in young women and minors from Nigeria into Italy for the purpose of sexual exploitation. Part of the technical assistance provided to Nigeria focused on strengthening the bilateral cooperation between the two countries and enhancing the capacity of relevant Nigerian agencies to prevent, investigate and prosecute human trafficking cases. Guidelines on how to improve bilateral cooperation were developed and a memorandum of understanding was signed by the Attorney General and Minister of Justice of Nigeria and the National Anti-mafia Prosecutor of Italy. More specifically, the memorandum of understanding outlined areas of future cooperation between the two countries, including:

- Exchange of information and documents on trafficking in persons and other related organized crime and on the people involved in compliance with investigation secrecy requirements
- Adoption of measures necessary to favour the effective and prompt execution of any request for extradition and legal assistance in criminal matters relevant to trafficking in persons and other related organized crime
- Development of professional contacts and relations between members of their respective offices in order to facilitate exchanges of data, legal information and expertise on human trafficking

Memorandum of understanding between Nigeria and Benin

A memorandum of understanding on cross-border issues was agreed by Benin and Nigeria as a result of a summit meeting in Nigeria in August 2003. The purpose of the memorandum of understanding, signed by the two Heads of State, is to strengthen the cooperation between the two countries in response to alarming transnational issues such as immigrant smuggling, cross-border crimes, human trafficking and drug trafficking. The memorandum described the agreed upon cooperation as follows:

- Immediately establishing joint inspection task forces, including customs, for the purposes of inspection of transit goods
- Immediately establishing a joint border patrol team, including police, customs, immigration and security service officials, to improve security at the borders (it was agreed that the joint border patrol team had the power to arrest individuals and hand them over to appropriate authorities in both countries for investigation and prosecution)
- Facilitating cooperation with respect to data and intelligence gathering and exchange of information
- Facilitating cooperation between law enforcement agencies for prevention purposes
- Identifying, investigating and prosecuting agents and traffickers
- Protecting victims of human trafficking and returning them to their country of origin
- Encouraging citizens from both States to refrain from crossing borders illegally and engaging in transnational criminal activities



chapter 5

LAW ENFORCEMENT AND PROSECUTION

In the fight against trafficking in persons, law enforcement and prosecution strategies should reflect the geographical, structural and commercial components that make up the crime of trafficking in persons.

Geographically and structurally, these can be expressed as follows:

- State of origin (recruitment and export)
- State of transit (transportation)
- State of destination (reception and exploitation)

Within these three areas, the commercial characteristics inherent in this type of crime mean that the traffickers are compelled to become involved in one or more of the following activities at any or all of the three phases shown above:

- Advertising (as part of the recruitment or exploitation process)
- Renting of premises (safe houses, brothels, sweatshops, factories etc.)
- Transportation (identity and travel documents and the transit process)
- Communications (organizing the recruitment and exploitation)
- Financial transactions (applicable to all of the above)

Evidential material may exist at any one of these stages in the trafficking process and investigators must find ways to exploit fully these evidential opportunities and thereby secure the rescue of the victims and the apprehension and conviction of the traffickers and the confiscation of their criminal assets.

In effect, there are three major investigative approaches, which are not mutually exclusive:

- Reactive investigation (victim led, see tool 5.1)
- Proactive investigation (intelligence generated, police led, see tool 5.2)
- Disruptive investigation (police led option in cases where the other two options are not appropriate, see tool 5.3)

Parallel financial investigations (see tool 5.4) and the use of special investigation techniques (see tool 5.5) can also produce appreciable results, in particular when these methods are applied systematically by joint investigation teams (see tool 5.6).

Efficient law enforcement and prosecution strategies are based on solid intelligence and on effective exchange of intelligence between agencies and between jurisdictions. Different types of intelligence must be gathered (see tool 5.7) and, at times, it becomes necessary to obtain the collaboration of offenders in order to achieve that kind of advantage (see tool 5.8).

Investigators have a duty to respect and protect the rights of victims of trafficking. Tools 5.9 and 5.10 describe these duties and relate to the need to ensure the safety of victims during an investigation.

Finally, direct witnesses of a crime are always a crucial element of a successful prosecution and offering them effective protection often becomes an essential condition of effective intervention (tools 5.11 and 5.12).

TRAINING TOOLS FOR LAW ENFORCEMENT AND JUDICIARY

UNODC training manual on the implementation of the ECOWAS Plan of Action against Trafficking in Persons

http://www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Law Enforcement Manual for Fighting against Trafficking in Human Beings (UNDP)

<http://www.undp.ro/governance/Best%20Practice%20Manuals/>

Anti-trafficking training module for police (International Centre for Migration Policy Development)

<http://www.icmpd.org/uploading/Comprehensive%20Training%20Strategy.pdf>

Training materials for judges and prosecutors (International Centre for Migration Policy Development)

<http://www.icmpd.org/uploading/Short%20note%20Judicial%20training.pdf>

TOOL 5.1 Reactive, victim-led investigation

Background

A reactive investigation as a result of a complaint from one or more victims is often necessary, even if it does not always lead to a successful action in terms of arrest and prosecution of offenders. In such cases, the need for an immediate intervention to protect the victims may afford little time to implement a proactive investigation to obtain independent evidence. The result is often that the investigators will be left with suspects but no viable evidence upon which to prosecute them.

Investigations triggered by victims' complaints

In all cases where victims come to the attention of the law enforcement agency, the following responses may be applicable:

- Immediate intervention against the traffickers in order to rescue other victims or to prevent further potential victims from being entrapped or to secure evidence that may otherwise be lost, or both
- Utilization of the intelligence or statement of the victim or third party as the basis for developing and conducting a proactive or disruptive investigation into the traffickers
- Utilization of the intelligence or statement as the basis for an in-depth, intelligence gathering operation into the traffickers

Where the assessment of risks for the victims clearly indicates the need for immediate intervention, it is necessary to take prompt action.

Where the level of risk to remaining victims or the need to secure vital evidence demands an immediate intervention, the case must move to the arrest phase, where the following guidelines should be followed:

- Every suspect against whom there is sufficient evidence to justify the action should be arrested, no matter how minor or peripheral his or her role. The reason for this recommendation is that experience has shown that the major players in any network will often take full precautionary measures to conceal their part in the crime. They will be extremely unlikely to retain possession of any incriminating documentation and are likely to remain silent throughout any interview process.
- There will always be a possibility in this type of case that an arrest will need to be implemented at very short notice, for example, following the compromise of the surveillance or undercover officers or the sudden increase in the risk level to the victims. Therefore, it is advisable to have a skeleton arrest plan prepared and ready to go from an early stage of the operation, a plan that can then be refined as the operation progresses.

- The arrest phase should be timed and coordinated so as to maximize the opportunity to simultaneously arrest as many of the suspects as possible and to rescue as many victims as possible. In addition, the objective is to execute the plan at a time that will offer the best prospect of securing further evidence as the arrests are made.

Where time permits and the intervention requires the raid of a premises, detailed planning of the raid should be carried out. It is worth considering deploying an undercover or covert officer before launching the raid and proceeding with the arrest of the suspects. This will provide an opportunity for a reconnaissance of the premises to estimate the number of persons present and the layout of the premises such as means of entry, the presence of reinforced doors, or the numbers of rooms. The risks posed by the arrest operation and the resources required to overcome them can then be properly assessed.

For a variety of reasons, reactive investigations are often the least effective option for investigators. For instance, a victim may initially provide a statement and promise to testify in judicial proceedings and then withdraw his/her cooperation with detrimental consequences for the ongoing investigation.

TOOL 5.2 Proactive investigation

Background

The complexity of the investigation in human trafficking cases tends to dictate long-term, sustained efforts based on solid intelligence gathering and analysis and multi-agency collaboration. This tool introduces the reader to an example of a multi-agency, intelligence-led approach that brought together law enforcement, the intelligence community and various government departments.

The proactive option

What is the proactive option and why use it? For the purposes of this Toolkit, the proactive option in the context of trafficking in persons means the investigation, arrest and successful prosecution of traffickers without having to rely upon the cooperation and testimony of the victims.

By using a combination of intelligence, human and technical surveillance, undercover deployments (when authorized under the law) and standard investigative techniques, investigators can identify the traffickers and ensure that they are effectively prosecuted. The use of this option is simply an acknowledgement on the part of law enforcement agencies of the real difficulties confronting the victims of trafficking who may not wish or be able to testify against their exploiters.

The proactive option provides the means whereby law enforcement agencies can take steps to combat the traffickers without the complaint and evidence of the victims. It is not intended to disenfranchise the victims from the prosecution process—far from it; the testimony of the victim will always remain the prime source of quality evidence. This option simply acknowledges the reality that such testimony is rarely forthcoming.

The Achilles heel of commercial and other records

Experience and best practice have shown that the proactive option is a very effective method of combating traffickers. The explanation for this can be found by considering the crime from the same commercial perspective as that used by the traffickers. Traffickers regard men, women and children as commercial commodities to be recruited, transported and exploited for profit—it is criminal business and, as with most crime, it is ultimately all about money. The traffickers may vary their modus operandi, alter the routes, switch their identities and use a range of other tactics to maximize their profits and avoid detection. But there is one feature of the crime that they cannot disassociate themselves from if their business is to be profitable: the need to market the product.

As with all commercial activity requiring the sale of goods (in this case the goods being the victims) it cannot operate without those goods being marketed and advertised to potential buyers. This commercial imperative creates the Achilles heel that traffickers cannot escape.

There is no commercial point in trafficking new victims into a State unless the clients are made aware of their arrival and availability and this can only be achieved by some form of advertising, irrespective of whether the marketing and advertising is simply by word of mouth or a sophisticated Internet advertisement site. It is true that some forms of trafficking in persons lend themselves to public advertising and others do not. The woman trafficked into domestic service may reach her “employer” through the commissioning of a trafficker, though she may be ultimately sold on to another “employer”. She may not ever be advertised to the public, but she will come into contact, sooner or later, with some member of the public.

What this means in terms of law enforcement is that, provided an investigator knows where to look, the forced labour or sexual exploitation that is the basic foundation of the crime, can always be identified and located—and if you can locate the victim you can locate the traffickers.

Reflex (United Kingdom)

The United Kingdom has developed and implemented a national intelligence model for intelligence-led policing across law enforcement. At the heart of the system is a series of analytical products that enable the setting of priorities through a tasking and joint coordinating process. It also provides for policing to be focused at different levels from local issues up to serious and organized international crime.

All law enforcement agencies are adopting the system, thereby increasing linkage and commonality of approach.

In 2000, the United Kingdom developed a multi-agency operational response to tackle organized immigration crime. Known as Reflex, this multi-agency approach brings together law enforcement, the intelligence community and government departments under a common strategy and shared objectives. It is chaired by the Director General of the National Crime Squad, the operational police organization responsible for spearheading the fight against serious and organized crime.

Reflex is responsible for tackling all aspects of organized immigration crime. Its overall aim is to reduce the harm caused by serious and organized criminality involved in people smuggling and human trafficking by:

- Raising the risks that the criminals must take
- Rendering their illegal businesses unprofitable
- Reducing the opportunities for them to exploit communities

Led by intelligence, Reflex operational and preventative measures target criminal groups involved in:

- Smuggling of illegal migrants
- Trafficking in persons (in particular trafficking in women and children)
- Running the criminal infrastructures that serve both to facilitate illegal entry and to exploit the illegal population once in the United Kingdom

Reflex has developed systems where agencies share intelligence on traffickers, jointly consider the best tactics for disruption and decide who is best placed to carry it out. The strength of such an approach lies in the varied backgrounds, expertise and resources that different agencies bring to the table. It requires individual agendas and cultures to be set aside, which is an achievable outcome providing all agencies share in the success of operations.

This cooperation extends to include joint operational teams where police officers work alongside immigration officers. This is an innovative approach considering that immigration officers in the United Kingdom are civil servants and not from a police background.

Wherever they operate, traffickers are motivated by profit. Identifying and seizing assets, disrupting the underground money flows and making it unprofitable for the gangs to operate forms a major plank of the United Kingdom's approach. However, realizing profits from organized immigration crime does not always rely on selling a commodity at the end of the process. Effective action requires the successful blend of existing expertise with new thinking and tactics.

Targeting trafficking feeds into the United Kingdom's wider strategy on asset recovery that aims:

- To make greater use of the investigation of criminal assets in the fight against crime
- To recover money that has been made from crime or which is intended for use in crime
- To prevent criminals and their associates from laundering the proceeds of criminal conduct and detect and penalize such laundering where it occurs
- To use the proceeds recovered for the benefit of the community

Financial investigators are therefore being allocated to immigration crime teams and a central Reflex money-laundering unit will target sophisticated illegal money flows that support trafficking and other forms of organized immigration crime.

However, Reflex is not only about developing operations against traffickers and facilitators. Under its banner, a number of overseas partnerships have been developed leading to systems and procedures being introduced or strengthened to help tackle trafficking at the source or along the transit routes. This in turn serves to reduce the opportunities for the traffickers to exploit more victims.

A particularly good example has been Reflex in Romania, where a partnership working with colleagues in Romania has developed a unit based in Bucharest to disrupt illegal migration and trafficking flows from and through Romania and its neighbouring States. The creation of a central intelligence unit has led to a significant number of arrests and disruptions. During its first phase of operational activity, 105 criminal groups operating in this sector were identified, 48 were disrupted and 90 individuals were arrested in relation to immigration or trafficking offences.

A slightly different focus was used in partnership working with colleagues from Italy and Serbia and Montenegro. The main achievements in this project have been to build strategic working relationships with colleagues in Serbia and Montenegro and to provide specialist training on passenger analysis, forgery and anti-trafficking measures—the latter delivered in conjunction with the International Organization for Migration (IOM).

Under Reflex, the United Kingdom continues to develop overseas partnerships, with projects in Bulgaria and the former Yugoslav Republic of Macedonia currently under way.

Source: <http://www.nationalcrimesquad.police.uk/>

This approach was explained by William Hughes, Director General of the National Crime Squad of the United Kingdom as part of his presentation on “The criminal exploitation of women: a United Kingdom operational perspective on the trafficking in women and children”, during the International Police Executive Symposium, Eleventh Annual Meeting, 16-20 May 2004, Chilliwack, B.C., Canada.

TOOL 5.3 Disruptive investigation

Background

Where neither the reactive nor the proactive approach is possible, it may be useful for law enforcement to resort to a number of tactics to disrupt human trafficking operations and force them to reveal themselves. This tool looks at some of the main disruptive options available to law enforcement.

General principles of the disruptive investigative option

The use of the disruptive option may be appropriate in a variety of circumstances:

- Where the level of risk to the victims demands an immediate response that precludes the proactive option but may require an immediate intervention and disruption thereafter
- Where the proactive option is not viable for operational reasons, such as where geographical and/or topographical features make surveillance on target premises impracticable, or where it is impossible to achieve undercover penetration of the network
- Where legislative, procedural or resource implications preclude the use of proactive tactics
- Where the disruptive option provides a faster response to specific complaints from local residents or other interested groups

Irrespective of why the disruptive option may be the most appropriate response under certain circumstances, two key points should be noted. Firstly, disruption may temporarily relieve the situation, but it does not provide a solution and will only displace the problem to another location. Secondly, the key to success with the disruptive option is the use of creative and innovative multi-agency tactics to create so many daily problems as to make it virtually impossible for the traffickers to continue to operate in their current format and location.

There are a number of multi-agency partners that can be harnessed to the disruption effort (the list is not exhaustive): local police agencies; immigration services; customs agencies; ministries of foreign affairs, health, environment and labour; fire services; local municipal authorities; and airlines and other carriers.

Areas for disruption

Whatever type of disruptive tactic is deployed, the following four important points should be noted regarding this type of activity:

- Disruptive tactics are aimed across a wide front. They may result in complaints by some individuals (e.g. advertisers, property agents or travel agents) about

intimidation or improper use of legislative powers. This may occur because the net effect upon them of compliance with law enforcement instructions will be an economic one—it may cost them business. The response to these complaints if they arise is straightforward: the crime of trafficking is a grave abuse of the human rights of the victims and it is the duty of law enforcement agencies to utilize all possible legal means to disrupt and reduce it.

- If time permits, disruption activity should be conducted on an incremental basis. It is usually better to seek cooperation in the first instance. If this fails to produce the required result, the disruption can be increased incrementally to reinforce the message.
- Disruption does not always achieve the desired outcome on the first occasion and may have to be repeated. It is important to have detailed records of what has already taken place in order to strengthen the message if it has to be repeated.
- Disruptive activity always creates intelligence opportunities, so it is important to ensure that all available intelligence is captured and properly recorded. It may become the basis of proactive operations at a later date.

A further measure that can lead to disruption is the use of education programmes. As such, education campaigns are purely preventive measures designed to achieve long-term benefits by educating potential victims of the risks inherent in the crime of trafficking.

That being said, education campaigns can also play a vital role in disruptive activity in certain circumstances. It may be possible to establish liaison with the organization conducting the programme (usually a non-governmental organization carrying out a campaign on behalf of a governmental agency) in order to include current thematic intelligence and facts in the programme content.

For example, if the intelligence indicators showed that victims were being induced to travel to a particular State where the visa regime clearly meant that the victims could never remain there legally and therefore any promise of residency and/or employment there must be false, this fact could be included in the educational material in order to disrupt and reduce the rate of flow. Similarly, if the trafficking modus operandi involved deceptive advertisements of well-paid non-existent employment abroad in secretarial or domestic work, the programme could include thematic warnings about such deception.

This type of disruption allied to preventative education programmes has to be handled sensitively, in particular if it is intended to include material beyond impersonal, thematic advice. With all such initiatives, it is vital that the material is based upon verifiable intelligence. The most careful consideration would be needed before any material could be used that would identify an individual or specific organization or company, since this could result in legal action. Prior to any such action, close consultation would have to take place between lawyers representing the law enforcement agency and the programme agency and the material would have to be based upon irrefutable evidence of the facts to be broadcast.

TOOL 5.4 Parallel financial investigation

Background

It would be difficult to overstate the critical role of financial investigation in the successful investigation of human trafficking.

The golden rule is: “Follow the money and you will find the trafficker.”

Financial aspects

The financial aspects of the crime of human trafficking present themselves in at least two important ways:

- The crime itself is all about money. In addition to the initial investment to create the infrastructure and deliver the personnel for exploitation, the ongoing management of the proceeds of the exploitation and, finally, the laundering and movement of the profits have to become part of the activities of the traffickers.
- Trafficking is a crime that takes time to establish and develop. Therefore, it becomes a lifestyle crime. Such lifestyle pursuits as the mode of travel, expenditure on luxury items such as cars and jewellery, leisure activities such as restaurants and casinos etc., all require means and methods of purchase.

In transnational cases, diversity of legislation, procedure and resources can become an issue. This is especially the case with financial investigations.

It is advisable to conduct a proactive financial investigation during the pre-arrest investigative phase, followed up in the post-arrest phase. When applied during the proactive pre-arrest phase, its use must be considered against the risk of disclosing the law enforcement operation. However, most versions of asset confiscation legislation contain punitive provisions for any individual or institution that discloses the fact of a financial enquiry to the account holder. This reduces the security risks that are always attached to proactive enquiries in the pre-arrest phase.

TOOL 5.5 Special investigative techniques

Background

Special investigative techniques can be effective in instances of human trafficking and are especially useful when dealing with sophisticated, often transnational, criminal organizations. This tool introduces the question of electronic surveillance and undercover operations and alerts the reader to the frequent need to be able to conduct such operations across borders, in cooperation with other enforcement agencies. It describes the provisions of article 20 of the Organized Crime Convention.

Article 20 of the Organized Crime Convention

Article 20 of the Organized Crime Convention specifically endorses the investigative techniques of controlled delivery, electronic surveillance and undercover operations. These techniques are useful in particular when dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence for use in domestic prosecutions as well as providing mutual legal assistance to other States parties. In many cases, less intrusive methods simply will not prove effective, or cannot be carried out without unacceptable risks to those involved.

Undercover operations may be used where it is possible for a law enforcement agent or other person to infiltrate a criminal organization to gather evidence. Electronic surveillance in the form of listening devices or the interception of communications performs a similar function and is often preferable where a close-knit group cannot be penetrated by an outsider or where physical infiltration or surveillance would represent an unacceptable risk to the investigation or the safety of investigators. Given its intrusiveness, electronic surveillance is generally subject to strict judicial control and numerous statutory safeguards to prevent abuse.

Article 20, paragraph 1, pertains to investigative methods that are to be applied at the domestic level. Paragraphs 2 to 4 of article 20 provide for measures to be taken at the international level.

TOOL 5.6 Joint investigation teams

Background

In complex cases of human trafficking, successful investigations are usually the result of the work of joint investigation teams. Article 19 of the Organized Crime Convention encourages States parties to create such teams as a tool to combat organized crime. This tool describes the main aspects of joint proactive operations, refers the reader to an example of a joint investigation team and explains the main steps involved in establishing such a team.

Within the European Union, steps have been taken to create such teams between two or more member States to deal with criminal organizations operating across borders. The European Convention on Mutual Assistance in Criminal Matters

Article 19 of the Organized Crime Convention

Article 19 of the Organized Crime Convention states that:

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 19 encourages, but does not require, States parties to enter into agreements or arrangements to conduct joint investigations, prosecutions and proceedings in more than one State, where a number of States parties may have jurisdiction over the offences involved.

The second sentence of the article provides a grant of legal authority to conduct joint investigations, prosecutions and proceedings on a case-by-case basis, even in the absence of a specific agreement or arrangement. The domestic laws of most States already permit such joint activities and for those few States whose laws do not so permit, this provision will be a sufficient source of legal authority for case-by-case cooperation of this sort. In case a State will require new legislation to take part in such activities, please see the below examples of national legislation:

Australia <http://scaleplus.law.gov.au/html/pasteact/3/3479/pdf/136of2001.pdf>

Canada <http://laws.justice.gc.ca/en/c-46/text.html>

France <http://www.legifrance.gouv.fr/> (select "*les codes*", then "*code des douanes*")

United Kingdom <http://www.hmso.gov.uk/acts/acts2000/00023--d.htm>

(2000) provides for the setting-up of joint investigative teams. Europol, the law enforcement agency that supports the member States of the European Union, is expected to play a central role in supporting such teams by giving advice and assisting with centralized coordination of operations. The concept of introducing joint investigations is a positive development but a difficult process in practice, with a number of legal, administrative, economic and practical problems.

Joint proactive operations

As with any form of international organized crime, the successful investigation of trafficking in persons depends on the ability of law enforcement officers to investigate it while they identify and gather evidence from other jurisdictions. The best practice points that are set out below address the subject of pre-agreed, proactive operations conducted simultaneously by two or more States. Experience has shown that proactive operations can be an effective counter-trafficking option for law enforcement. Moreover, experience indicates that joint proactive operations can be the most effective and productive option that is currently available to investigators working on cases involving human trafficking.

There are a number of reasons for this:

- Traffickers often commit the crime in more than one jurisdiction and joint investigations reflect that situation.
- Joint operations allow for the collection of evidence in each of the jurisdictions involved in the crime.
- Although traffickers are more vulnerable while present in the State of destination, they also tend to be surveillance conscious and more cautious in their activities when in the destination State. They are often less concerned to conceal and protect themselves from investigation in the States of origin or transit because they feel safer; joint operations mean that investigators in the origin or transit States can exploit these evidential opportunities and gather valuable corroborative evidence of the recruitment and transportation phases of the crime.
- Joint proactive operations increase the ability of law enforcement agencies to combat human traffickers because joint operations allow the investigators to agree in advance on the overall strategy best suited to convicting the suspects.
- This includes not only agreement as to where the main investigative effort is to be focused but also decisions as to the method of coordination, the tactics to be employed to collect the evidence, the offences being targeted and the best location for the prosecution that will arise from the investigation.

The question for law enforcement agencies often becomes one of determining which offence and which location offers the best prospect of securing sufficient quality evidence upon which to base a human trafficking prosecution. In many cases, it is

the State of destination. However, it does not necessarily follow that the prosecution must take place within that same jurisdiction. Subject to extradition laws and the circumstances of the case, investigators from the origin, transit and destination States can implement a pre-agreed, proactive joint operation whereby the evidence is simultaneously collected in each State with the objective of mounting the prosecution of the traffickers in one of the States.

A number of important points need to be considered before carrying out a joint investigation.

- The law enforcement agency seeking to establish a joint proactive operation must first identify an investigative counterpart in the other State. The counterpart must not pose a security risk to the operation or to the victims involved and must have the capacity and ability to conduct the type of investigation that is being proposed.
- At the legal level, extradition provisions must exist in the national laws of the “partnering” agencies that allow for the extradition, for the offences under investigation, of the suspects targeted by the operation to the State that has been identified as the optimum location for the prosecution.
- Mutual legal assistance arrangements that allow for the collection and transfer of supporting evidence from one State to the other must also exist.
- Additionally, before the operation is launched, the operational strategy and tactics that will be used should be clearly defined and agreed upon by all the parties involved, as well as the coordination and communication channels and mechanisms.
- Furthermore, a mechanism should be defined for the review and redirection of operational objectives as required. The key to success of joint investigations is close coordination of activities from the outset.

There are other issues that will need to be considered in this situation. Procedures regulating joint operations vary from State to State. In some States, the decision to conduct a joint operation is taken by the police officer in charge of the squad concerned. In other venues, the decision rests with the prosecutor or examining magistrate. In some States, the decision may require a formal letter of request before a joint operation can commence.

The essential factor is for the investigators to establish effective and early liaison across jurisdictions prior to taking action. It may be that the proactive investigation under consideration is bilateral only and can be efficiently coordinated between units working to combat human trafficking in both States. It may be that the proposal is multilateral, involving a number of States in a particular network. Whatever the situation, the “golden rule” is to establish early contact with the liaison officer network that is the most effective in the State concerned.

Exchange of personnel

Virtually all investigations involving human trafficking must establish links with agencies in other States. Investigators from other States can be invited to join the investigation or be part of it as observers. This has proven to be an efficient way of establishing contacts and building trust between law enforcement agencies in different States. It is also a way of providing information that can generate new investigations in the State that is being invited to participate in an investigation.

For example, in one case of trafficking for the purpose of prostitution in Denmark, a police officer from Latvia was invited to attend when the Latvian victims were interviewed in Denmark. The Latvian officer was able to provide local and language knowledge to facilitate the investigation and, at the same time, gained information about the victims that might be used in investigating their recruiters and traffickers in Latvia.

TOOL 5.7 Intelligence gathering and exchange

Background

Intelligence gathering and exchange between relevant authorities of States parties is crucial to the success of measures to attack transnational criminal networks. This tool examines the types of intelligence required for the conduct of successful investigations.

Intelligence

It would be virtually impossible to establish and manage an organized trafficking network without creating audit trails in one or more of the following areas: advertising, rentals, transportation, communications and financial transactions. Each of these areas affords intelligence-gathering opportunities for law enforcement officers. To be of maximum value to counter-trafficking measures, intelligence gathering activity should focus on the strategic and tactical levels. In practice, the tactical intelligence will normally form the basis for the strategic overview, but both are equally important for the reasons set out below.

Despite positive developments in certain areas, often there is a deficit in the intelligence gathering capability of law enforcement agencies and other relevant multi-agency partners. An increasing number of States are creating national task forces or other specialized units to address the problem. The coordination of intelligence gathering efforts is a key function of these units. At the international level, police agencies such as Interpol now produce annual situation and threat assessment reports on a country-by-country basis and conduct analytical research into the phenomenon. Much more needs to be done to enhance the situation and provide

national and international law enforcement agencies with the necessary strategic and specific tactical intelligence material to enable them to combat the traffickers successfully.

There are many reasons, both strategic and tactical, why the skilful and targeted gathering and exchanging of intelligence is of critical importance in the fight against human trafficking. The key ones are as follows:

- It will enable an accurate assessment to be made of the actual scale, method and gravity of the crime at the local, national and international levels.
- This will enable policymakers to allocate appropriate levels of resources to address the problem.
- It will help to raise media and public awareness of the crime which, in turn, will help to mobilize the political will to address it.
- The intelligence assessment will help to facilitate the strategic response in areas such as legislative changes, international cooperation, prevention strategies and education campaigns.
- The collection and dissemination of intelligence may lead to the rescue and repatriation of the victims of the crime.
- It will provide the raw material and form the basis for reactive, proactive and disruptive investigations of traffickers.
- It will facilitate the conduct of joint operations between States.
- It may prevent or reduce duplication of investigative efforts in different jurisdictions.
- Thematic and specific intelligence can be used to prevent or disrupt trafficking networks in the States of origin, transit or destination, either separately or simultaneously.
- Thematic and specific intelligence can be used to enhance the credibility and relevance of training programmes and education campaigns.

Types of intelligence required

The key areas of intelligence activity are likely to be the following:

Strategic. The objective is to conduct an overall intelligence assessment of the various strategic factors that underpin the existence of human trafficking in a particular State and that generate the origin, transit and destination status. A large amount of the data that will be analysed and utilized in this strategic overview will be derived from intelligence gathered at the operational level.

Socio-economic thematic data such as economic hardship, absence of job and educational opportunities, particularly for women, lack of access to health-care facilities, or any other relevant factors that serve to create a supply of victims.

This thematic intelligence would include features that have an impact upon the demand side of the cycle, such as a demand for females of certain ethnic background, appearance or age.

Cultural thematic intelligence that may affect the crime, such as control mechanisms deployed to ensure the compliance of the victims, such as “voodoo” rituals in the case of West African nationals or religious factors that may be relevant, such as the sensitive security issues involved with the repatriation of certain Islamic victims of sexual exploitation to their families in the State of origin.

Historical or linguistic thematic indicators such as a history of colonial connections between the origin and destination States that contributes to the trafficking of victims, such as East and West African States and the United Kingdom. Common language links may also be a contributory factor as in the case of trafficking from Central and South America into the Iberian Peninsula, where the common Spanish and Portuguese languages help to facilitate the crime.

Routes and profiling thematic indicators that are closely linked to all of the categories itemized above. For example, the historical and linguistic factors listed above have a key impact not only in relation to routes used but also to the overall profiling of the victim and offender. With respect to routes, additional factors might be the existence of relaxed visa controls between an origin and destination State, or within commercial airline partnership arrangements. Profiling can be developed by careful analysis of all of the data obtained under the above categories but also includes factors such as the growing demand for child prostitutes in certain regions because of the widely held belief that the lower the age of the prostitute, the lower the likelihood of sexually transmitted infection.

Operational. There are a number of key areas of intelligence gathering activity at the operational level. While not an exhaustive list, the following areas are of significance:

- Recruitment methods (deception, coercion, abduction etc.)
- Advertising media (word of mouth, printed media, Internet)
- Forged identity documentation (preparation and acquisition)
- False visa entitlements (preparation and acquisition)
- Travel documents (payment methods used and location of agents)
- Travel routes and means (routes followed, mode of travel)
- “Safe house” accommodation (location and provision)
- Means of communication (e-mail, mobile telephones, fax machines etc.)
- Financial intelligence (transactions in respect of all of the above activities)
- Information from visa sections and consular services
- Information from airlines and travel agencies

It is essential that intelligence is transmitted to those who are in a position to use it. Expedient transfer of the intelligence is often an issue. A vital factor in effective exchange of intelligence is the speed at which the material can be transmitted to the relevant agencies or investigators who may be in a position to respond to it. Intelligence very quickly becomes obsolete in the fast moving field of trafficking operations.

TOOL 5.8 Seeking the collaboration of offenders

Background

The investigation and prosecution of traffickers can be greatly assisted by the cooperation of members of criminal organizations involved in these activities. It is important that effective systems are established to cultivate, recruit, register, manage, pay and control offenders as informants. Under certain circumstances, these offenders can be encouraged to collaborate with law enforcement, possibly by mitigating their punishment or granting them immunity from prosecution. This tool presents the provisions of article 26 of the Organized Crime Convention relating to these important practices.

Criminals as informants and witnesses

The investigation and prosecution of members of sophisticated transnational criminal groups can be greatly assisted by the cooperation of some of these members. The same applies to the prevention of serious crimes and victimization, when inside information leads to the foiling of planned criminal operations.

These are special witnesses, as they are subject to prosecution themselves by means of their direct or indirect participation in an organized criminal group. Some States have sought to promote the cooperation of such witnesses through the mitigation of punishment or granting of immunity from prosecution under certain conditions, which vary from State to State.

The Convention requires that States take measures to encourage such cooperation in accordance with their fundamental legal principles. The specific steps to be taken are left to the discretion of the States, which are asked but not obliged to adopt leniency or immunity provisions.

In accordance with article 26 of the Organized Crime Convention, States must:

- Take appropriate measures to encourage persons who participate or who have participated in organized criminal groups
 - To supply information for investigative and evidentiary purposes;

- To provide factual, concrete help contributing to depriving organized criminal groups of their resources or of the proceeds of crime
- Consider providing for the possibility of mitigating the punishment of an accused person who provides substantial cooperation
- Consider providing for the possibility of granting immunity from prosecution to a person, who provides substantial cooperation

TOOL 5.9 Guidelines on human rights and human trafficking in the context of law enforcement

Background

The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking provide a number of elements that should be part of the law enforcement component of a national strategy to address trafficking in persons.

Recommended guidelines

Guideline 5

Ensuring an adequate law enforcement response

Although there is evidence to suggest that trafficking in persons is increasing in all regions of the world, few traffickers have been apprehended. More effective law enforcement will create a disincentive for traffickers and will therefore have a direct impact upon demand.

An adequate law enforcement response to trafficking is dependent on the cooperation of trafficked persons and other witnesses. In many cases, individuals are reluctant or unable to report traffickers or to serve as witnesses because they lack confidence in the police and the judicial system and/or because of the absence of any effective protection mechanisms. These problems are compounded when law enforcement officials are involved or complicit in trafficking. Strong measures need to be taken to ensure that such involvement is investigated, prosecuted and punished. Law enforcement officials must also be sensitized to the paramount requirement of ensuring the safety of trafficked persons. This responsibility lies with the investigator and cannot be abrogated.

States and, where applicable, intergovernmental and non-governmental organizations should consider:

1. Sensitizing law enforcement authorities and officials to their primary responsibility to ensure the safety and immediate well-being of trafficked persons.

2. Ensuring that law enforcement personnel are provided with adequate training in the investigation and prosecution of cases of trafficking. This training should be sensitive to the needs of trafficked persons, particularly those of women and children, and should acknowledge the practical value of providing incentives for trafficked persons and others to come forward to report traffickers. The involvement of relevant non-governmental organizations in such training should be considered as a means of increasing its relevance and effectiveness.
3. Providing law enforcement authorities with adequate investigative powers and techniques to enable effective investigation and prosecution of suspected traffickers. States should encourage and support the development of proactive investigatory procedures that avoid over-reliance on victim testimony.
4. Establishing specialist anti-trafficking units (comprising both women and men) in order to promote competence and professionalism.
5. Guaranteeing that traffickers are and will remain the focus of anti-trafficking strategies and that law enforcement efforts do not place trafficked persons at risk of being punished for offences committed as a consequence of their situation.
6. Implementing measures to ensure that “rescue” operations do not further harm the rights and dignity of trafficked persons. Such operations should only take place once appropriate and adequate procedures for responding to the needs of trafficked persons released in this way have been put in place.
7. Sensitizing police, prosecutors, border, immigration and judicial authorities, and social and public health workers to the problem of trafficking and ensuring the provision of specialized training in identifying trafficking cases, combating trafficking and protecting the rights of victims.
8. Making appropriate efforts to protect individual trafficked persons during the investigation and trial process and any subsequent period when the safety of the trafficked person so requires. Appropriate protection programmes may include some or all of the following elements: identification of a safe place in the country of destination; access to independent legal counsel; protection of identity during legal proceedings; identification of options for continued stay, resettlement or repatriation.
9. Encouraging law enforcement authorities to work in partnership with non-governmental agencies in order to ensure that trafficked persons receive necessary support and assistance.

The full text of the Recommended Principles and Guidelines on Human Rights and Human Trafficking can be found at:

http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

TOOL 5.10 Safety of victims during the investigation

Background

Law enforcement officers have an unequivocal humanitarian and legal duty to treat the victims of trafficking in accordance with their fundamental human rights. This tool summarizes some good practices that can serve as a basis for a humanitarian approach to law enforcement.

- *The safety of the victims and their families and loved ones is the paramount consideration at all times and the direct responsibility of the investigator.*

Notwithstanding that the most effective response to trafficking victims is a multi-agency one, the issue of safety resides and remains with the law enforcement investigator—it cannot be abrogated or delegated to other agencies.

- *The investigator has a clear duty to conduct a continuous process of risk assessment with respect to the safety and welfare of the victims and their families at every stage of the investigative and judicial process and beyond.*

Safety and the possibility of reprisals against the victims and their families will always be a feature of crime related to trafficking and it will never be possible to completely eradicate the risk factors. However, the duty of the investigator is to ensure that the risks in each case are assessed from the outset and that the assessment is continuously reviewed and updated. Moreover, where the victims have testified, the duty of care does not end with the conclusion of the trial.

- *The investigator has a clear duty to be open and honest at all times with the victims so that they are made fully aware of the issues, responsibilities and potential consequences and risks attached to any decision that they may be called upon to make.*

Cooperation with law enforcement officers will always involve an element of risk for the victims of trafficking and possibly their families. The critical point is that the victims are made fully aware of all the issues and risks attached to any decision they are asked to make by the investigator so that they can reach a fully informed decision. Deception of the victims is a means utilized by traffickers; the situation should never arise whereby victims of trafficking can justifiably claim that they were deceived for a second time by law enforcement officers.

- *The investigator has a clear duty to ensure that the victims are made fully aware of all available support measures and services that exist to help them overcome their ordeal and that the victims are able to establish initial contact with them.*

Victims of trafficking may never recover from the physical, psychological or sexual damage that they have suffered. It is vital that they are given access to the full range of support and care services that exist to aid them in the recovery process. It is not the role of the investigator to provide this care and support; other agencies exist to provide these services and do it far better than law enforce-

ment officers. The crucial point is that it is the duty of the investigator to ensure that the victims are fully informed of the help that is available to them and can get in touch with the relevant organizations. To facilitate this, investigators should develop a network of contacts with the relevant governmental and non-governmental organizations that provide such support services.

Source: UNDP, *Law Enforcement Manual for Fighting against Trafficking in Human Beings*, available at:

<http://www.undp.ro/governance/Best%20Practice%20Manuals/>

TOOL 5.11 Border control measures

Background

There are a number of measures that States can take to make it more difficult for traffickers to move people across borders. These measures are also included in the Migrants Protocol. This tool reviews the common provisions of the Trafficking in Persons Protocol and the Migrants Protocol. Some examples of promising practices are also reviewed.

Over recent years, as a result of various factors, border controls have been greatly reduced. The permeability of borders aids criminal organizations in the trafficking of persons regionally and internationally. The technical capacity of border control agencies to detect and prevent trafficking is often inadequate and needs to be improved. For instance, at border crossings in many States there are no telecommunication facilities or even manual record-keeping of the crossings of commercial carriers.

Border control agencies and border police lack staff, infrastructure and funding. Criminal networks benefit from that situation and are transporting groups across borders where there are no regular inspections.

Strengthening border controls and cooperation between border control agencies

Under article 11 of both the Trafficking in Persons Protocol and the Migrants Protocol, States parties are required to strengthen border controls to the extent possible and, in addition to measures pursuant to article 27 of the Organized Crime Convention, to consider strengthening cooperation between border control agencies, including by the establishment of direct channels of communication. Under article 12 of both Protocols, States parties are required to ensure the integrity and security of their travel documents. Under article 13 of both Protocols, States parties are also required, at the request of another State party, to “verify within a reasonable time” the legitimacy and validity of documents purported to have been issued by them.

The practical outcome of the requirement to strengthen basic border controls is to make it more difficult for traffickers to use conventional means of transport to enter into countries. Such measures include making border control more effective and taking measures to prevent the misuse of passports and other travel or identification documents. Cross-border cooperation is recommended. Many of the issues raised by cooperation between border-control agencies in different States will be similar to those raised by cooperation between law enforcement agencies (see the previous tools in this chapter).

For example, in Bulgaria, a special trafficking unit has been established within the directorate of the National Border Police Service. The tasks of this unit include investigation, gathering of documentary evidence, joint actions and exchange of information with other national and international law enforcement agencies. The Service has signed agreements on operative cooperation and information exchange with Germany, Romania and the former Yugoslav Republic of Macedonia.

Measures recommended by the Organization for Security and Cooperation in Europe

- Consider taking measures that permit, in accordance with domestic law, the denial of entry, the revocation of visas or possibly the temporary detention of persons implicated in committing offences as defined by the legislation in force.
- Consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.
- Without prejudice to international commitments in relation to the free movement of people, strengthen, to the extent possible, border controls as may be necessary to prevent and detect trafficking in human beings.
- Adopt legislative or other appropriate measures to prevent, as far as possible, means of transport operated by commercial carriers from being used in committing offences, as defined by the provisions against trafficking.
- Where appropriate, and without prejudice to applicable international conventions, oblige commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of valid travel documents and, in accordance with domestic law, taking the necessary measures to provide for sanctions in case of violation.
- An important additional recommendation from the OSCE is that States should not prosecute trafficked persons for trafficking-related offences such as holding false passports or working without authorization, even if they agreed to hold false documents or to work without authorization.

The OSCE Action Plan to Combat Trafficking in Human Beings can be downloaded at:

http://www.osce.org/documents/pc/2005/07/15594_en.pdf

Security and control of documents

Around the world, falsification of all kinds of legal documents is occurring on a large scale. New technologies mean that false documents can be more easily produced and criminal networks are able to provide trafficking victims with false passports and other travel documents such as visas. Evidence also points to instances of corruption among immigration officers in league with trafficking networks and corrupt embassy personnel providing visas for people being trafficked abroad. Technical measures are required to make documents more difficult to falsify, forge or alter. Administrative and security elements are required to protect the production and issuance process against corruption, theft or other means of diverting documents.

Several kinds of technology that are new or in the process of being developed offer considerable potential for the creation of new types of document that identify individuals in a unique manner, can be rapidly and accurately read by machines and are difficult to falsify because they rely on information stored in a database out of the reach of offenders rather than information provided in the document itself. One example is the European image archiving system called “False and Authentic Documents” (FADO). FADO makes possible the speedy verification of documents and fast, comprehensive notification of relevant law enforcement or immigration authorities in other participating States when misuse of a document or a fraudulent document is detected.

See http://europa.eu.int/comm/justice_home/fsj/freetravel/documents/printer/fsj_freetravel_documents_en.htm

Carrier sanctions

In addition, there are a number of basic measures recommended to help control the use of public carriers by traffickers. States can prevent the use of commercial carriers as a means of transport in the trafficking of persons by requiring them to ascertain that all passengers possess the travel documents required for entry into the destination State. Failure to do so would result in appropriate sanctions, the so called “carrier sanctions”.

In addressing the need for better border measures and the security and control of travel documents, ECOWAS developed an action plan that includes the following provisions:

1. States shall establish procedures to verify whether a person who is the victim of trafficking in persons is a national or has the right of permanent residence in the State of origin, and to provide such travel documents or other authorization as may be necessary to enable a victim of trafficking in persons who is without proper documentation to travel to and re-enter its territory, at the request of a receiving State.
2. States, at the request of another State, when presented with suspected cases of trafficking in persons, shall verify, within a reasonable time, the validity of travel

and identity documents issued or purported to have been issued in their name and suspected of being used for trafficking in persons.

3. States shall take such measures as may be necessary, within available means (a) to ensure that the birth certificates and travel and identity documents they issue are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated, or issued; and (b) to ensure the integrity and security of travel or identity documents they issue and to prevent their unlawful creation, issuance and use.

4. States shall encourage commercial carriers to take precautions against their means of transport being used in the trafficking of persons and require, where appropriate and without prejudice to applicable international conventions, such carriers to ascertain that all passengers are in possession of travel documents required for entry into the receiving State. States shall further adopt provisions requiring that the carrier hold all documents for minors travelling alone for them until they have reached their destination.

By implementing these provisions, ECOWAS States aim to ensure that trafficking victims are quickly identified and documented and that the falsification of documents is reduced. In addition, by requiring carriers to take part of the responsibility for the care of travel documents, a significant additional workforce is added to the process of document inspection and verification.

TOOL 5.12 Witness protection

Background

The role of witnesses and the evidence they provide in criminal proceedings is often crucial in securing the conviction of offenders, especially in respect of organized crime such as human trafficking. This tool presents the provisions of the Organized Crime Convention relating to the protection of witnesses (art. 24) and obstruction of justice (art. 23, subpara. (a)). The protection may include physical protection, domestic or foreign relocation, special arrangements for giving evidence and relocation agreements. Prosecuting offenders or their accomplices under criminal law for intimidating or threatening witnesses is another means of protecting witnesses from such acts.

Witness protection provisions of the Organized Crime Convention

According to article 24 of the Organized Crime Convention, States parties must take appropriate measures within their means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by the Convention and, as appropriate, for their relatives and other persons close to them. These measures may include:

- Establishing procedures for the physical protection of such persons, such as relocating them and permitting limitations on the disclosure of information concerning their identity and whereabouts
- Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness

These requirements are mandatory, but only “where appropriate” and “within the means” of the State party concerned. States parties are also enjoined to consider entering into agreements or arrangements with other States for the relocation of witnesses (art. 24, para. 3).

This means that the obligation to provide effective protection for witnesses is limited to specific cases or prescribed conditions where, in the view of the implementing State party, such means are “appropriate”. Officials might be given discretion to assess the threat or risks in each case and only extend protection where justified by the assessment, for example. The obligation to provide protection also arises only where such protection is within the “means”, such as available resources and the technical capabilities, of the State party concerned.

The term “witnesses” is not defined, but article 24 limits the scope of witnesses to whom the obligations apply to “witnesses in criminal proceedings who give testimony concerning offences covered by this Convention, and, as appropriate, for their relatives or other persons close to them”. Witnesses can be either simple observers of a crime or victims of the crime. Witnesses can also be individuals who belonged to an organized criminal group or who committed a crime and then decided to collaborate with the justice system.

Obstruction of justice

States parties are also required to address the question of “obstruction of justice” by creating an offence for situations where efforts are made to influence potential witnesses and others in a position to provide the authorities with relevant evidence. The obligation is to criminalize the use of both corrupt means, such as bribery, and coercive means, such as the use or threat of violence. States parties are required to criminalize the “use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention” (art. 23, para. a). The use of force, threats and inducements for false testimony can occur at any time before the commencement of the trial, whether formal “proceedings” are in progress or not. Therefore, the term “proceedings” must be interpreted broadly to cover all official governmental proceedings, including pre-trial processes. States are required to apply this offence to all proceedings related to offences “covered by the Convention” and the Protocols.

Interpreted narrowly, this would only apply where testimony is actually given, or when it is apparent that testimony will be given, although the requirement to protect witnesses from “potential” retaliation may lead to a broader interpretation.

Extended protection

The experience of States that have established witness protection schemes suggests that a broader approach to implementing this requirement may be needed to afford effective protection to witnesses and ensure their cooperation with investigations and prosecutions. Witness protection schemes should consider extending protection in the following cases: (a) to all persons who cooperate with or assist in investigations until it becomes apparent that they will not be called upon to testify; and (b) to persons who provide information that is relevant but not required as testimony or not used in court because of concerns for the safety of the informant or other persons.

Legislators may therefore wish to make witness protection provisions applicable to any person who has or may have information that is or may be relevant to the investigation or prosecution of an offence covered by the Convention, whether this is produced as evidence or not.

Protection programmes

Police witness protection programmes aim to prevent offenders or their accomplices from approaching and intimidating the witness. In some cases, the participation of witnesses in a witness protection programme will be absolutely necessary to guarantee their safety. In other cases, protection measure may not be necessary at all. Police witness protection programmes require an enormous personal and psychological adjustment on the part of participants. Wherever possible, effective psychosocial support should also be provided to them. Given the costs and the implication of such programmes on the daily lives of the witnesses involved, such programmes are usually restricted to serious crime, including organized crime.

Witness protection measures include, among other things, relocation of witnesses, change of identity, police escorts and financial and social assistance. Relocation includes the removal of the witnesses, possibly together with their families, from their place of living to a place where they are not easily recognized. Depending on the seriousness of the risk involved, relocation may be on a long-term basis or of a temporary nature, for example during criminal proceedings. Further, relocation might be necessary more than once, for example, if the witness or a family member makes a mistake that could lead to a heightened security risk or if a family member wants to leave the programme. Additional measures to prevent the tracing of protected witnesses through population registers, telephone books or vehicle registers might also be useful.

Witness protection programmes are expensive, involving costs for protection services, removals, temporary residences, economic subsistence, housing and medical

services. In order to maintain effective witness protection programmes, States need to ensure that sufficient funding is available. Witnesses for the programme must be assessed for suitability and selected carefully. In many instances, the provision of other measures such as the installation of panic alarms in the home or place of business of witnesses and provision of mobile telephones, supplemented by daily contact by law enforcement officials or police escorts, may be considered appropriate.

Persons close to witnesses, such as their family members or staff of specialized victim support non-governmental organizations, may also face threats to their security. States should thus ensure that witness protection programmes can be extended to such persons.

The Philippines' Witness Protection, Security and Benefit Act provides protection, including relocation and limited disclosure or non-disclosure of information concerning the identity and whereabouts of protected persons, to witnesses and, as appropriate, their family members. For more information, please see: http://www.doj.gov.ph/faqs_witness.html and <http://www.chanrobles.com/republicactno6981.htm>

Witnesses usually enter a witness protection programme by signing a written agreement, often called a memorandum of understanding or memorandum of agreement, which defines the obligations of the protected witness and of the protecting agency. Such agreements are codes of conduct rather than legally binding contracts.

The course and duration of witness protection programmes is substantially influenced by the progress of criminal investigations and court proceedings. In some instances (for example, Germany, Italy and the Netherlands), the protection can be extended through every phase of the investigation, prosecution and trial, and continue even after a conviction has been obtained. The termination of a person's participation in the programme is typically determined by means of regular assessment of the danger that exists for the witness.

Legislation

Legislation to establish a witness protection programme usually establishes the authority of the agency responsible for organizing and providing protection services. The United Nations model witness protection bill provides a starting point for the development of the required legislation.

United Nations model witness protection bill

The aim of the model witness protection bill is to ensure that investigation and prosecution of serious criminal offences is not prejudiced because witnesses are intimidated or frightened to give evidence without protection from violent or other criminal recrimination. Through a witness protection programme to be administered and maintained by a designated person or body, witnesses can be given protection and assistance to shield them from such recrimination. The disclosure of information relating to the programme or witnesses participating in it is made an offence.

The model witness protection bill and commentary can be found on the UNODC website at: http://www.unodc.org/pdf/lap_witness-protection_2000.pdf
http://www.unodc.org/pdf/lap_witness-protection_commentary.pdf

Lesson from experience in South Africa

Experience in South Africa reveals that a centralized, single witness protection agency in a government ministry (for example the Ministry of Justice) can offer a greater guarantee of effective witness protection and help prevent failures resulting from incompetence or corruption. Such a centrally organized and administered agency should have its own budget, adequate funding, a central secure database, including data on the witnesses participating in protection programmes nationwide, and safe houses. It is also advisable to set up a specialized police unit responsible for carrying out the protection measures, because the use of normal police units on an ad hoc basis can compromise the integrity of the programme and prevent it from accumulating the necessary expertise.

Lesson from experience in the Philippines

In the Philippines, the Department of Justice is in charge of coordinating the national witness protection programme; other governmental agencies are also involved, depending on their respective mandates and responsibilities, in several aspects of the programme. An interdepartmental memorandum of understanding was developed to delineate the respective responsibilities of the various departments: the Health Department is to assist the Justice Department in providing witnesses with medical treatment and hospitalization; the Department of Labour and Employment helps witnesses to secure employment and obtain a means of livelihood; the Department of Social Welfare and Development provides assistance to witnesses with respect to skills training services, crisis intervention and help in dealing with traumatic reactions; and, the National Bureau of Investigation and the National Police are responsible for providing personal safety for the witness and her or his family. This coordinated approach involves all relevant governmental actors and thereby covers the many aspects of witness protection programmes over and above physical protection.

TOOL 5.13 Witness protection during and after the prosecution and trial

Background

Witness protection measures are, in more serious cases, associated with change of identity and relocation. To provide an effective and real protection to the witness, the protection should also consider the measures taken during and after the prosecution and trial. After a successful investigation, witnesses become particularly vulnerable to corruption, threats and intimidation during and after the prosecution and the trial.

A number of measures must be taken at the trial stage to ensure that the case is successfully prosecuted and the trial process is not compromised. Some measures, such as video testimonies or the exclusion of the general public from a hearing, aim to protect the witness's identity, privacy and dignity. Other measures, for example witness concealment or allowing witnesses to remain anonymous, aim at protecting their physical security.

Court witness protection measures are generally authorized and regulated under criminal (procedural) law. Such measures aim to prevent the accused or his accomplices from violating the witness's physical integrity in the courtroom and, in some cases, from revealing the witness's identity. Other measures, which include anonymous witness statements or testimony behind screens, are not necessary in cases where the trafficker knows the identity of the witness. In other cases, however, the witness may have legitimate reasons to fear for her or his personal safety if the accused, or others present in the courtroom, are informed of her or his name and address. Courtroom based witness protection measures such as video-link testimonies require technical equipment, well-trained personnel and adequate financial resources. Therefore, sufficient funding must be made available to the prosecutors and the courts to use them effectively.

Testimony via video-link

Video-link testimonies, or teleconferences as they are sometimes called, allow witnesses to testify in a location other than the courtroom. Their statement is transmitted in actual time via video-link to the courtroom, where the judge, the defendant, the defence counsel and the public prosecutor watch and listen to the transmission and can ask questions of the witness. The room where the witness is testifying can be a separate room in the court building or in a different location.

This method protects the witness from direct confrontation with and intimidation by the accused. It creates physical distance between the witness and the accused and thus an environment where the witness feels secure enough to testify. It does not, however, prevent the accused from recognizing the witness, as she or he is

fully visible to the audience. In cases where it is necessary to guarantee the anonymity of the witness, video-link testimonies can be combined with techniques allowing for the distortion of the image or voice, or both, of the witness.

Witness concealment

In some cases, video-link testimonies might not be sufficient to guarantee effective protection for victims testifying against the traffickers. Additional measures may be necessary to avoid the witness's recognition by the trafficker. This could include video-linked testimonies combined with image and/or voice-altering devices or testimonies in the courtroom behind an opaque shield.

Some precautions must be taken to prevent such measures from interfering with the rights of the accused to a full defence and a fair trial. If the witness is not directly visible, the judge and the defendant may not be able to assess the witnesses' reactions to questions and consequently may not be able to assess their credibility fully. On the other hand, important evidence may be lost because witnesses may not be willing to testify when their image is visible and their identity revealed to the accused. It is necessary to balance carefully the rights and interests of the endangered witness and those of the accused.

Examples of good practices

Italy

Under Italian law, the main way of protecting the trafficked person's safety when she or he gives testimony is through using the "incidente probatorio" (special evidence pre-trial hearing). It is a closed hearing and generally used in cases where there is a danger that evidence may be interfered with; it may also be used in cases where witnesses may be pressured not to testify or if there is a risk of them leaving the country before the actual trial starts.

Portugal

The witness protection act in Portugal provides for witness concealment or testimony via teleconference, if the information provided by the witness poses a serious risk to the witness or her or his family members. However, victims may participate in the criminal process not only as witnesses, but also as injured persons claiming compensation from the trafficker. In such cases, protective measures might also be necessary.

In Portugal, video-linked testimonies or statements are admissible upon request by the public prosecutor, the defendant or the witness. The location from which the testimony is transmitted has to be a public building, preferably a court, police station or prison, which offers the appropriate conditions for the use of the necessary technical devices. The court can restrict the access to this location to technical staff, officials or security personnel deemed strictly indispensable. During the testimony, an escort judge must be present.

Protection after the trial involves many different authorities, including law enforcement, the judiciary, immigration services, labour authorities, civil register authorities and prison services. After the trial, the role of non-governmental organizations providing victim support services is often crucial.

Role of non-governmental organizations

For various reasons, governmental witness protection programmes often cannot be applied to the protection of witnesses of trafficking. Firstly, they are extremely expensive. Secondly, to ask the victim and her or his family to adopt a new identity, to relocate and to give up all social contacts places them under considerable additional strain and will very often seem disproportionate to the benefits obtained. Thirdly, the police are not the adequate institution to provide the support in the psychological recovery process that victims of trafficking require.

Therefore, the protection of witnesses and victims of trafficking in general calls for tailor-made solutions that are implemented in the closest possible cooperation between law enforcement, the judiciary, immigration services, labour authorities, civil register authorities, prison services and non-governmental organizations that provide victim support services. The aim of these programmes is to empower the victim and to enable him or her to overcome victimization. Ultimately the victim will live his or her life in safety without depending on protection measures of state institutions. Therefore, the final goal of such a programme should be safety, not protection, meaning that the victim is in a position to look after his or her security needs in autonomy.

An effective cooperation between the authorities and non-governmental organizations providing victim support services requires a common understanding of the problem, agreed aims of the cooperation, a clear understanding of the distinct roles of the players and respect and a sufficient understanding of the other players and the way they work.

Means to foster the basis for cooperation among these different authorities and non-governmental organizations include:

- The establishment of a coordination group or a task force that meets regularly
- The organization of joint training involving the professional groups mentioned above
- The joint development of common strategies and procedures
- The signing of a memorandum of understanding between the organizations represented in the coordination group or a similar body, which spells out in detail the roles and functions of all players at the different stages of the proceedings
- The ability of non-governmental organizations to understand the work of the judiciary and to cooperate improves when their staff includes members with a

legal background who can function as intermediaries between the non-governmental organization and the judiciary

State actors in particular have to keep in mind that victim support agencies are not created to help the State but the victim or witness. Full solidarity and confidentiality in favour of the victim are basic principles of the entire work of victim support agencies, just as impartiality and transparency are principles governing public authorities and especially the judiciary. Victim support agencies should not, therefore, be required to perform any kind of monitoring of the witness as they are not performing law enforcement functions.

For information on measures to protect children as witnesses, see also the website of the International Bureau for Children's Rights at: <http://www.ibcr.org/>



chapter 6

VICTIM IDENTIFICATION

The early identification of trafficked persons is a prerequisite for their recognition as victims and, consequently, their access to assistance and protection. Persons who are likely to be in contact with victims (such as police and justice officials and staff from health and social services and other personnel) should receive training in order to enable them to identify victims and to be sensitive to their needs. This is especially significant for those who may come in contact with victims of trafficking who are without the resources of citizenship in the destination State and are thus especially vulnerable.

It is crucial to enlist the cooperation of all persons and groups who come into contact with victims of trafficking, such as border guards, police and immigration officers, doctors, medical and social workers, housing and agricultural inspectors, and staff of organizations involved in the rights of immigrants, women and victims, as well as refugee protection and asylum organizations. Proper training can help these various individuals to identify trafficked persons in order to refer them to victim support organizations.

In the United States, for example, officials from the Department of State regularly brief foreign service officers, including consular officers and ambassadors, on human trafficking. The latter are provided with substantive knowledge of the nature and scope of the problem and information on how to identify and assist victims and how to work with host Governments to improve their efforts to combat trafficking (see <http://www.state.gov/g/tip/rls/rpt/10531.htm>).

Outreach work can be a crucial element of efforts to identify and support victims of trafficking in the environment in which they are forced to work. This work is typically performed by social service agencies and non-governmental organizations. Health care providers are also part of the front-line services that may come into contact with victims. A network of professionals and agencies should be involved in the identification of potential victims and should work together in order to protect victims and ensure a referral network without gaps.

FOCUS ON THE VICTIM

Sometimes, in a rush to accomplish other goals, such as prosecuting the traffickers, States focus on victims for the information they can provide or their usefulness to the criminal justice system.

The danger is that States might treat the victims as merely pawns in a struggle between the State and the traffickers and not as human beings in need of protection and assistance and deserving of respect.

Whenever possible, hotline and outreach services should be able to respond in foreign languages. Law enforcement, immigration, health care, social services and other professionals may also be able to use these hotline services to help them refer victims to the appropriate services.

In the United States, a national Trafficking Information and Referral Hotline has been established. It helps professionals and others determine if they have encountered victims of human trafficking and to identify local resources available in their community to help victims. Hotline services for victims of trafficking are often part of services for victims of crime in general, or services for female victims of violence. Hotline numbers are often distributed during outreach attempts and made broadly available through the media.

TRAINING MATERIAL

Many agencies and non-governmental organizations have developed material and training packages that provide valuable information for front-line workers. Workshops and training seminars have been developed to assist professional staff in identifying victims of trafficking and understanding how to assist them once they are known.

The tools presented in this chapter emphasize the need to avoid criminalizing victims of trafficking and putting them at greater risk because of an intervention. They offer guidelines for interrogation, screening tools for law enforcement officials and service providers and other instruments to facilitate the identification of victims and their access to services and protection.

TOOL 6.1 Non-criminalization of victims of trafficking

Background

Trafficked persons are sometimes treated as criminals rather than as victims, whether in States of destination, transit or origin. In States of destination, they may be prosecuted and detained because of irregular migration or labour status. Alternatively, immigration authorities may simply deport them to the State of origin if their immigration status is irregular. Trafficked persons returning to their State of origin may also be subjected to prosecution for using false documents, having left the State illegally, or for having worked in the sex industry. Criminalization limits the trafficking victims' access to justice and protection and decreases the likelihood that they will report their victimization to the authorities. Given the victims' existing fears for their personal safety and of reprisals by the traffickers, the added fear of prosecution and punishment can only further prevent victims from seeking protection, assistance and justice. This tool explains the need to avoid criminalization of victims of trafficking.

Discussion

An essential element of protection of victims of trafficking and their rights must be that States do not prosecute trafficked persons for trafficking-related offences such as holding false passports or working without authorization, even if they agreed to hold false documents or to work without authorization. Whether prostitution is legal or not, States should not prosecute persons for being trafficked into sexual exploitation, even if the person originally agreed to work in the sex industry. Without this approach, victim assistance and support programmes are rendered ineffective and meaningless.

In spite of this human rights perspective, however, trafficked persons are currently prosecuted for crimes committed during their period of victimization. Where this occurs and in the absence of State laws to prevent this prosecution from occurring, victims should be able to raise the defence of having been subjected to psychological coercion, physical force or the threat of force when the crime was committed. The possibility of the victim raising the defence of coercion in any such case should be respected.

The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking provides a number of elements on non-criminalization of trafficked persons.

Recommended principles

Protection and assistance

7. Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

Recommended guidelines

Guideline 8

Special measures for the protection and support of child victims of trafficking

8. Ensuring that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.

The full text of the Guidelines can be found at:

http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Neither the Organized Crime Convention nor the Trafficking in Persons Protocol include an explicit obligation for States parties to refrain from criminalizing victims of trafficking. However, a number of non-binding guidelines (such as those recommended by the United Nations High Commissioner for Human Rights referred to above), action plans (such as the OSCE Action Plan, also mentioned above) and declarations and resolutions (including, for example, General Assembly resolutions 55/67 and S-23/3) enjoin States to prevent trafficked persons from being prosecuted for their illegal entry or residence. Such provisions are consistent with the recognition of the human rights abuses to which trafficked persons are subjected. They are also consistent with the treatment of trafficked persons as victims of crime, whether or not the persons responsible for the trafficking are identified, arrested, charged, prosecuted or convicted.

TOOL 6.2 Identification of victims of trafficking

Background

Correctly identifying victims of trafficking in persons is essential for their protection and the protection of their rights. The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking contain a guideline on the identification of trafficked persons and traffickers that should be kept in mind while developing a national strategy.

Recommended guidelines

Guideline 2

Identification of trafficked persons and traffickers

Trafficking means much more than the organized movement of persons for profit. The critical additional factor that distinguishes trafficking from migrant smuggling is the presence of force, coercion and/or deception throughout or at some stage in the process—such deception, force or coercion being used for the purpose of

exploitation. While the additional elements that distinguish trafficking from migrant smuggling may sometimes be obvious, in many cases they are difficult to prove without active investigation. A failure to identify a trafficked person correctly is likely to result in a further denial of that person's rights. States are therefore under an obligation to ensure that such identification can and does take place.

States are also obliged to exercise due diligence in identifying traffickers, including those who are involved in controlling and exploiting trafficked persons.

States and, where applicable, intergovernmental and non-governmental organizations, should consider:

1. Developing guidelines and procedures for relevant State authorities and officials such as police, border guards, immigration officials and others involved in the detection, detention, reception and processing of irregular migrants, to permit the rapid and accurate identification of trafficked persons.
2. Providing appropriate training to relevant State authorities and officials in the identification of trafficked persons and correct application of the guidelines and procedures referred to above.
3. Ensuring cooperation between relevant authorities, officials and non-governmental organizations to facilitate the identification and provision of assistance to trafficked persons. The organization and implementation of such cooperation should be formalized in order to maximize its effectiveness.
4. Identifying appropriate points of intervention to ensure that migrants and potential migrants are warned about possible dangers and consequences of trafficking and receive information that enables them to seek assistance if required.
5. Ensuring that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons.
6. Ensuring that trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody.
7. Ensuring that procedures and processes are in place for receipt and consideration of asylum claims from both trafficked persons and smuggled asylum seekers and that the principle of non-refoulement is respected and upheld at all times.

The full text of the Guidelines is available at:
http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

TOOL 6.3 Checklist to facilitate the identification of victims

Background

Trafficked persons can be identified by law enforcement officials and officials from other government agencies. This tool introduces a checklist that can help officials from various agencies identify victims of trafficking.

Standardized checklist

Standardized checklists are useful tools to facilitate the identification of trafficked persons and their use by all professionals who may come into contact with victims should be encouraged. The Philippine Centre on Transnational Crime developed one such simple checklist that can be used as an example. It lists the facts that ought to be ascertained by the official coming into contact with a potential victim.

Victim

1. Demographics (sex, current age, age at departure, education, occupation, nationality).
2. Does the victim possess false documents?
3. Does the victim allege kidnapping or admit travelling voluntarily?
4. Did the victim approach the offender or vice versa?
5. Was payment made to the victim or the victim's family?
6. Was payment made prior to departure or has debt or debt bondage occurred?
7. Did the victim make any payment to the offender?
8. Does the victim allege deception or violence on recruitment?
9. Does the victim allege exploitation or violence at the place of reception?
10. Was the victim involved in illegal activities at the place of reception?
11. Were other victims involved in the same recruitment, transport and exploitation?

Offender

1. Demographics (sex, age, nationality/ethnic background, profession, education).
2. Is the offender integrated in the community of recruitment?
3. Does the offender have a criminal background?
4. Is the offender suspected of or have convictions for trafficking?
5. Is there evidence of involvement in a criminal organization?

6. Is there evidence of contact or involvement with corrupt officials?
7. Were false documents provided to the victim?
8. Was a recognized trafficking transit route used?
9. Were non-standard transport modes used?
10. Were safe houses used?
11. Were documents withheld from the victim?

Other

1. How was contact made?
2. Through whom was recruitment made?
3. If deception is alleged, what was the nature of the deception?
4. If violence is alleged, was the violence actual or threatened?
5. Was the violence against the victim or the victim's family?
6. If false documents were used, what documents were falsified?
7. How long was the victim abroad?
8. Were other suspects involved in recruitment, transport, transit or reception?

Law enforcement officers involved in situations where trafficking is suspected are encouraged wherever possible to involve members of local non-governmental organizations who may be helpful in approaching, contacting and interviewing suspected victims. Clear follow-up procedures must also be in place in order to ensure the safety of individuals identified as victims and place them within a support system.

It is also important to remember that victims of trafficking may often reach out for support to informal or non-official contacts. For example a person trafficked into sexual exploitation may develop a relationship with and confide in a sympathetic client, who, in turn, may assist the victim to escape and disclose the crime. Various approaches should be explored to extend information about the nature of trafficking and the characteristics and experiences of victims of trafficking in persons as widely as possible to ensure that victims can be identified as such by as many people as possible among those who are likely to be in contact with them. Information about non-governmental organizations able to assist in these circumstances and the services they offer should be made readily available.

TOOL 6.4 Tips for health-care practitioners

Background

The United States Department of Health and Human Services developed a brief overview of the trafficking problem as well as tips for identifying and assisting victims. This tool reproduces some of that material.

Overview of the problem

Health-care practitioners may have treated victims of human trafficking without realizing their circumstances and therefore have lost a chance to help them escape a horrific situation. The following provides a brief overview of the trafficking problem, as well as tips for identifying and assisting trafficking victims.

Human trafficking is a widespread form of modern-day slavery. While trafficking is largely a hidden social problem, many trafficking victims are in plain sight if you know what to look for.

Trafficking is not just forced prostitution. Victims of human trafficking may also be in forced labour situations as domestic servants (nannies or maids); sweatshop workers; janitors; restaurant workers; migrant farm workers; fishery workers; hotel or tourist industry workers; and as beggars.

Front-line health-care providers can help victims of human trafficking since they may be the only outsider with the opportunity to speak with a victim. There are housing, health, immigration, food, income, employment and legal services available to victims, but first the victims must be found.

Victim identification

A victim of trafficking may look like many of the people health-care practitioners help every day. Victims of trafficking can get the assistance they need if people with whom they come into contact look beneath the surface for the following clues:

- Evidence of being controlled
- Evidence of an inability to move or leave a job
- Bruises or other signs of battering
- Fear or depression
- Not speaking the language of the State
- Recently arrived in the State from another part of the world or the country
- Lack of passport, immigration or identification documentation

Traffickers use various techniques to keep victims enslaved. Some traffickers keep their victims under lock and key. However, the more frequent practice is to use less obvious techniques including:

- Debt bondage (financial obligations, honour-bound to satisfy a debt)
- Isolation from the public (limiting contact with outsiders and making sure that any contact is monitored or superficial in nature)
- Isolation from family members and members of their ethnic and religious community
- Confiscation of passports, visas and identification documents
- Use or threat of violence toward victims and families of victims
- The threat of shaming victims by exposing the circumstances to their family
- Telling victims they will be imprisoned or deported for immigration violations if they contact the authorities
- Control of the victims' money (e.g. holding their money for "safe-keeping")

The result of such techniques is to instil fear in victims. The victims' isolation is further exacerbated because many do not speak the language of the destination and are from States where law enforcement is feared.

Victim interaction

Asking the right questions may help to determine if someone is a victim of human trafficking. It is important to talk to a potential victim in a safe and confidential environment. If someone who seems controlling accompanies the victim, an attempt should be made to separate the victim from that person. The accompanying person could be the trafficker or someone working for the trafficker.

Ideally, you should also enlist the help of a staff member who speaks the victim's language and understands the victim's culture. As an alternative, the services of an interpreter can be used. Interpreters must be screened to ensure they do not know the victim or the traffickers and do not otherwise have a conflict of interest.

Source: United States Department of Health and Human Services,
http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/identify_victims.html

TOOL 6.5 Health-care providers' tool for identifying victims

Background

This tool, developed by the United States Department of Health and Human Services, contains key questions health-care providers should consider asking to determine whether someone is a victim of human trafficking. They are sample questions health-care providers can ask in screening an individual to determine if he or she is a potential victim of human trafficking.

Method

As with domestic violence victims, if you think a patient is a victim of trafficking, you do not want to begin by asking directly if the person has been beaten or held against his or her will. Instead, you want to start at the edges of his or her experience. And if possible, you should enlist the help of a staff member who speaks the patient's language and understands the patient's culture, keeping in mind that any questioning should be done confidentially.

You should screen interpreters to ensure they do not know the victim or the traffickers and do not otherwise have a conflict of interest.

Before you ask the person any sensitive questions, try to get the person alone if they came to you accompanied by someone who could be a trafficker posing as a spouse, other family member or employer. However, when requesting time alone, you should do so in a manner that does not raise suspicions.

Suggested screening questions:

- Can you leave your job or situation if you want?
- Can you come and go as you please?
- Have you been threatened if you try to leave?
- Have you been physically harmed in any way?
- What are your working or living conditions like?
- Where do you sleep and eat?
- Do you sleep in a bed, on a cot or on the floor?
- Have you ever been deprived of food, water, sleep or medical care?
- Do you have to ask permission to eat, sleep or go to the bathroom?
- Are there locks on your doors and windows so you cannot get out?
- Has anyone threatened your family?
- Has your identification or documentation been taken from you?
- Is anyone forcing you to do anything that you do not want to do?

Source: United States Department of Health and Human Services,
http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/screen_questions.htm

TOOL 6.6 Law enforcement tool for identifying victims

Background

This tool, developed by the United States Department of Health and Human Services, contains key questions law enforcement officers could ask to determine whether someone is a victim of human trafficking.

Fraud/financial coercion questions

- How did you get your job?
- How did you get into this country?
- Who brought you into this country?
- Did you come to this country for a specific job that you were promised?
- Who promised you this job?
- Were you forced to do different work?
- Who forced you into doing different work than what was promised?
- Was there some sort of work contract signed?
- Who organized your travel?
- How was payment for your travel handled?
- Are you getting paid to do your job?
- Do you actually receive payment or is your money being held for you?
- Do you owe your employer money?
- Are there records or receipts of what is owed to your employer or recruiter?
- Are there records or receipts of what was earned or paid to you?
- How were financial transactions handled?
- Are you in possession of your own legal identity documents? If not, why not?
- Were you provided false documents or identification?
- Are you being made to do things that you do not want to do?

Physical abuse questions

- Were you ever threatened with harm if you tried to leave?
- Did you ever witness any threats against other people if they tried to leave?
- Has your family been threatened?
- Do you know about any other person's family ever being threatened?
- Were you ever physically abused, or did you ever witness abuse against another person?
- What type of physical abuse did you witness?
- Were there any objects or weapons used in the physical abuse?
- Where are these objects or weapons located?

- Was knowledge of this abuse ever communicated to a person outside of this situation (e.g. police reports, domestic violence reports, hospital records, social service records)?
- Was anyone else ever abused or threatened with harm in your presence?
- How were medical problems handled, and who attended to them?

Freedom of movement questions

- Is your freedom of movement restricted?
- Do you live and work in the same place?
- What were the conditions under which you were left unattended?
- Were there instances of physical restriction through locks, chains etc.?
- Where are the locks used and who has the keys to them?
- How was movement in public places handled (e.g. car, van, bus, subway)?
- Who supervised your movement in public places?
- How was the purchase of private goods and services handled (e.g. medicines, prescriptions)?
- What forms of media or telecommunication did you have access to (e.g. television, radio, newspapers, magazines, telephone, Internet)?

Psychological coercion questions

Behavioural indicators:

- Who are you afraid of?
- Why are you afraid of them?
- What would you like to see happen to the people who hurt you (e.g. jail, deportation)?
- How do you feel about the police? Why?

Environmental indicators:

- Do you live and work in the same place?
- Where do you live/eat/sleep?
- Where do the alleged perpetrators live/eat/sleep?
- Are the living conditions between the two excessively disparate?

Law enforcement officers questioning the victim should consider the following:

Is there evidence of possible “Stockholm” or “Patty Hearst” syndromes, where kidnap victims, over time, become sympathetic to their captors?

Source: United States Department of Health and Human Services,
http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_law/screen_questions.html

TOOL 6.7 Interviewing victims

Background

The victim identification process should respect the rights of victims, their choice and their autonomy. To accomplish this objective, it is suggested that the victim identification process should be an integral part of the victim protection mechanisms set in place in the State. This tool, developed by OSCE, presents some elements to guide the work of law enforcement officials during their interviewing of persons they suspect of having being trafficked.

Interviewing suspected victims

- Law enforcement can identify persons as presumed trafficked persons during the first interview if they suspect that persons may have been trafficked.
- The following minimum standards should be in place during the first interview, regardless of the legal status of the person being interviewed:
 - The presumed trafficked person should be informed about the procedure of the police interrogation and its consequences.
 - The information given should be clear, accurate and in the native language of the presumed trafficked person.
 - Experienced interpreters should be present during the interview.
 - Questions touching upon the person's privacy, for instance, regarding intimate relationships and experiences in prostitution, should be avoided.
- A trafficked person can only be conclusively identified as such if the distinct elements of the crime of trafficking have been detected. This may require time because of the complexity of the crime of trafficking and the vulnerable status of trafficked persons suffering from post-traumatic stress disorder.
- A particularly effective way to promote self-identification of victims of trafficking is to allow for a "reflection period" (see chap. VII), a period of time in which the presumed trafficked person is referred for services and counselling, without having to make an immediate statement to police on her or his status. This enables the presumed trafficked person to receive appropriate support and allows them to make informed decisions.
- Besides the statements of the presumed trafficked person, other evidence should be collected to identify all the facts and relevant information to determine if the case is one of trafficking.

Source: National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons (Warsaw, OSCE, 2004), available at:
http://www.osce.org/documents/odihr/2004/05/2903_en.pdf

TOOL 6.8 Ethical and safe conduct of interviews with victims

Background

Interviewing a person who has been trafficked raises a number of ethical questions and safety concerns. The World Health Organization (WHO) has developed a set of recommendations intended primarily for use by researchers, members of the media and service providers unfamiliar with the situation of trafficked victims. These recommendations are based on a set of 10 guiding principles to the ethical and safe conduct of interviews with women who have been trafficked. Even though the recommendations are focused on female victims, they apply also to other victims of human trafficking.

WHO Ethical and Safety Recommendations for Interviewing Trafficked Women

1. Do no harm

Treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term.

2. Know your subject and assess the risks

Learn the risks associated with trafficking and each woman's case before undertaking an interview.

3. Prepare referral information: Do not make promises that you cannot fulfil

Be prepared to provide information in a woman's native language and the local language (if different) about appropriate legal, health, shelter, social support and security services and to help with referral, if requested.

4. Adequately select and prepare interpreters and co-workers

Weigh the risks and benefits associated with employing interpreters, co-workers or others and develop adequate methods for screening and training.

5. Ensure anonymity and confidentiality

Protect a respondent's identity and confidentiality throughout the entire interview process—from the moment she is contacted through the time that details of her case are made public.

6. Get informed consent

Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information, her right not to answer questions, her right to terminate the interview at any time and her right to put restrictions on how the information is used.

7. Listen to and respect each woman's assessment of her situation and risks to her safety

Recognize that each woman will have different concerns and that the way she views her concerns may be different from how others might assess them.

8. Do not re-traumatize a woman

Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.

9. Be prepared for emergency intervention

Be prepared to respond if a woman says she is in imminent danger.

10. Put information collected to good use

Use information in a way that benefits an individual woman or that advances the development of good policies and interventions for trafficked women generally.

Source: World Health Organization, *WHO Ethical and Safety Recommendations for Interviewing Trafficked Women* (Geneva, 2003), available at: <http://www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf>

TOOL 6.9 Victim certification

Background

Victims of trafficking cannot easily establish their status as victims and, as a result, may experience difficulties in accessing services that are available to this group. A State may therefore consider developing a scheme to confirm the “victim status” of individuals and their eligibility to various services, including temporary residence permits, health services, shelter and protection.

While the Trafficking in Persons Protocol makes some provision for the assistance and support of victims, there is no specific requirement or process established whereby the status of victims as such can be established. In cases where steps are taken to provide assistance to victims, legislators may therefore wish to consider establishing a process whereby victims or others acting on their behalf can seek such status. Generally, these might involve any or all of the following:

- Allowing courts or tribunals that convict traffickers or deal with trafficking in civil or other litigation to certify as such any victims that are identified during the proceedings, whether or not they actually participate in those proceedings.
- Allowing a judicial or administrative determination to be made based on the application of law enforcement, border control or other officials who encounter victims in the course of investigations or prosecutions.
- Allowing a judicial or administrative determination to be made based on the application of the alleged victim personally or some representative, such as a representative of a non-governmental organization.

Certification process in the United States of America

The following provides the example of the Victim Certification Process managed by the United States Department of Health and Human Services.

Certification allows victims of trafficking who are not United States citizens to be eligible for a special visa and certain benefits and services under any federal or state programme or activity to the same extent as a refugee. Certification provides victims of trafficking with the necessary documentation to be eligible to receive benefits and services they may need to rebuild their lives while remaining in the United States. Victims of trafficking who are United States citizens do not need to be certified to receive benefits. As United States citizens, they may already be eligible for many benefits.

To receive certification, victims of trafficking must:

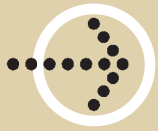
- Be a victim of a severe form of trafficking as defined by the Trafficking Victims Protection Act of 2000
- Be willing to assist with the investigation and prosecution of trafficking cases and
- Have completed a bona fide application for a T class visa or
- Have received continued presence status from the United States Customs and Immigration Services in order to contribute to the prosecution of human traffickers.

Once they have met the certification requirements listed above, victims of trafficking receive an official letter of certification from the Department of Health and Human Services, Office of Refugee Resettlement.

Adult victims of trafficking who are certified by the Department of Health and Human Services are eligible to receive certain benefits and services.

Child victims of trafficking (under the age of 18) do not need to be certified in order to receive services and benefits. The Office of Refugee Resettlement will issue a letter stating that a child is a victim of a severe form of trafficking and is therefore eligible for benefits.

Source: United States Department of Health and Human Services, Campaign to Rescue and Restore Victims of Human Trafficking, http://www.acf.hhs.gov/trafficking/about/cert_victims.html



chapter 7

IMMIGRATION STATUS OF VICTIMS AND THEIR REPATRIATION AND RESETTLEMENT

The expulsion and immediate repatriation of victims of trafficking does not encourage them to give evidence or to testify against traffickers and goes against their basic rights as victims.

Trafficked persons very often do not have a regular residence status in the State of destination, either because they arrived illegally or because their residence permit has expired. Therefore, they might fear being expelled from the State if they report the victimization to the authorities or, if in the course of an investigation, their illegal presence in the State comes to the attention of the police. Many destination States are unwilling to help trafficked persons regularize their residence status. As a consequence, victims of trafficking are denied access to protection, assistance, civil redress and justice. Their expulsion also means that they will not be available to assist in the prosecution of the traffickers.

REFLECTION PERIOD

Granting a reflection period, followed by a temporary or permanent residence permit, would ideally be granted to victims of trafficking regardless of whether the trafficked person is able or willing to give evidence as a witness. Such protection of the victim serves to raise his or her confidence in the State and its ability to protect his or her interests. Once recovered, a trafficked person with confidence in the State is more likely to make an informed decision and to cooperate with the authorities in the prosecution of traffickers. Special attention should be paid to child victims, i.e. persons below the age of 18, in that their best interests should be a primary consideration in all policies and procedures involving them.

For more information, see the “Opinion of the Expert Group on Trafficking in Human Beings of the European Commission on Reflection Period” of 16 April 2004.

The Expert Group issued the opinion with a view to the role of the European Commission in the negotiations concerning a European convention on action against trafficking in human beings and residence permits for victims of trafficking in human beings.

http://europa.eu.int/comm/justice_home/doc_centre/crime/trafficking/doc/opinion_experts_group_2004_en.pdf

RESIDENCE PERMITS

Article 7 of the Trafficking in Persons Protocol stipulates that each State Party “shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases”. In implementing that provision, each State Party “shall give appropriate consideration to humanitarian and compassionate factors”.

In the destination State, assistance and protection services for victims of trafficking cannot be offered effectively if the victims are not granted a reflection period or temporary residence status or if they are being criminalized because of their irregular residence or employment status. A reflection period or temporary residence status will also assist in providing the victim with the tools to make an informed choice about whether to participate as a witness in legal proceedings against the trafficker.

A scheme can be developed to grant humanitarian protection to victims of trafficking. In some cases, that protection entitles the victims to other rights and benefits. Residence permits for trafficked persons are often referred to as “humanitarian residence permits” and may be issued either on a temporary or permanent basis.

A number of international instruments exist under which these permits can be provided. These include declarations, conventions and guidelines of the United Nations, including the Trafficking in Persons Protocol, specific clauses of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 (General Assembly resolution 45/158, annex) and other politically binding documents of the Council of Europe, the European Union and OSCE. While the general emphasis in these documents is on providing a reflection period or temporary residence to assist the prosecution during criminal proceedings against the offender, there are often some other provisions made for the victims’ temporary residence, whether they participate in legal proceedings or not, and for permanent residence under humanitarian considerations.

States have introduced residence permits for trafficked persons based on different approaches, restricting in some instances the type of victim who may benefit from such permits or the nature of the circumstances that may make them eligible for a permit. These restrictive definitions are generally the result of the legal definition of trafficking in use in the State and demonstrate the critical practical relevance of the scope of the legal definition of trafficking adopted by a State.

ASYLUM FOR VICTIMS AS REFUGEES

In some instances, victims of trafficking may be eligible to claim asylum status, in particular when repatriation is not possible. Helping victims seek asylum can be a crucial part of the victim assistance services offered. Anti-trafficking laws, programmes and interventions should not affect the right of victims to seek and enjoy

asylum from persecution in accordance with international refugee law. To claim protection under refugee protection law, trafficked persons need to claim and prove that they have fled persecution under the meaning of the Convention relating to the Status of Refugees.²⁵

The Convention defines refugees as “persons who have a 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 State of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

The following tools offer some practical examples of how the need to regularize the immigration status of the victims may be addressed and how measures can be taken to proceed, when appropriate, with the repatriation of victims and their resettlement.

²⁵United Nations, *Treaty Series*, vol. 189, No. 2545.

TOOL 7.1 Reflection period

Background

The reflection period aims at protecting the human rights of trafficked persons; it grants the possibility for the victims of trafficking to begin to recover from their experiences and make an informed decision about the options whether to assist and cooperate in criminal proceedings, facilitating, in this way, the gathering of intelligence about traffickers' modus operandi.

Since many trafficked victims have irregular immigration status, the reflection period ensures them appropriate assistance and support, such as secure housing, psychological counselling, medical and social services and legal consultation. The reflection period is now recognized as an effective best practice and humanitarian measure. This tool offers the example of the European Union Council Directive on the residence permit, including the reflection period.

Council of the European Union Directive on the residence permit

Article 6 of Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of action to facilitate illegal immigration, who cooperate with the competent authorities, stipulates that member States shall ensure that trafficked people are granted a reflection period allowing them to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether to cooperate with the competent authorities.

Article 7 states that member States shall provide trafficked people who do not have sufficient resources with subsistence and access to emergency medical treatment and shall attend to the special needs of the most vulnerable during the reflection period, including, where appropriate, psychological assistance. Member States shall also provide victims of trafficking with translation and interpretation services and may also provide free legal aid, if established and under the conditions set by national law.

After the expiry of the reflection period, where a Government considers that a trafficked person fulfils the established criteria, a residence permit of limited duration can be issued, linked to the length of investigations or judicial proceedings.

The full text of the Directive can be found at:

http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_261/l_26120040806en00190023.pdf

Belgium

In Belgium, victims of human trafficking are granted a reflection period of 45 days. One of the main conditions for the reflection period is that the victim must break the ties with the traffickers and accept the assistance of a specialized centre.

If the victim decides to make a statement, she or he is given a declaration of arrival (“aankomstverklaring”) for 3 months. After one extension of this declaration of arrival an inscription is made in the register of foreigners, which is valid for six months. With both these documents, the victim is allowed to access the labour market. The victim will also receive social welfare, have the right to education and to legal and psychological assistance.

See <http://www.antislavery.org/homepage/resources/humantrafficking/Belgium.pdf>
and http://www.enawa.org/NGO/Blinn_Final_Report.pdf

Germany

In Germany, victims of human trafficking may be granted a reflection period to enable them to think about whether they wish to give evidence as a witness against the perpetrator(s) in court proceedings. The standard reflection period in Germany is four weeks; in some states this may be extended for up to three months. If, after this period, the victim decides to give evidence as a witness, she or he is granted a residence permit until the testimony. If the victim decides against giving evidence, she or he is obliged to leave the country after the expiry of the four-week reflection period.

http://www.enawa.org/NGO/Blinn_Final_Report.pdf

Norway

In Norway, victims of human trafficking are offered a 45-day reflection period, during which they will be given an opportunity to assess their situation and to decide whether they wish to cooperate with the police in investigating and prosecuting the organizers.

<http://odin.dep.no/jd/norsk/aktuelt/pressesenter/pressemed/012101-070119/dok-bn.html>

TOOL 7.2 Temporary or permanent residence permits for victims

Background

This tool introduces article 7 of the Trafficking in Persons Protocol. The article concerns the status of victims of trafficking in persons in receiving States. This concerns the adoption of measures that can permit victims of trafficking in persons to remain, in appropriate cases, in a State temporarily or even permanently. The tool offers the examples of States that have adopted such measures as well as the example of a Council of the European Union Directive concerning residence permits for trafficked persons. These measures can have a strong effect on victims coming forward to testify against traffickers. They also facilitate the work of non-governmental organizations encouraging victims to whom they provide services to report incidents to the Government.

Provisions of the Trafficking in Persons Protocol

Article 7 of the Trafficking in Persons Protocol addresses the question of the status of victims as follows:

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

There is no obligation on the part of States parties to the Convention to legislate measures relating to the status of victims. However, in several States where measures have been adopted for the temporary or permanent residence of victims of trafficking, these measures have had a strongly positive effect on victims coming forward to testify against traffickers, and on non-governmental organizations encouraging victims to whom they provide services to report incidents to the Government.

Examples of good practices

The Netherlands

In the Netherlands, the B9 procedure is introduced to suspected victims of trafficking. The police use a list of indicators—absence of identification papers, restriction of freedom etc.—to identify potential victims of trafficking. Under this procedure, victims are given the possibility of staying in the Netherlands with a temporary residence permit if the victim decides to testify. The temporary residence permit will be valid during the investigation period and until the end of the trial. After that, the victim can apply for a permanent resident permit on humanitarian grounds. It is the responsibility of the police to introduce any person they suspect of being a trafficking victim to the B9 procedure. For more information about the B9 procedure, see the country report on the Netherlands contained in the European Commission document at: <http://www.nswp.org/pdf/HIPPOKRATES.PDF>

Italy

In Italy, article 18 of the Immigration Law provides a temporary residence permit to trafficked persons to give them the opportunity to escape from the violence and from the influence of the criminal organization and to participate in an assistance and social integration programme. The temporary residence permit allows access to assistance services, education or employment.

The residence permit is valid for six months and can be renewed for one year, or for a longer period, if required.

Italy grants protection to victims independently of their readiness to testify. This approach focuses upon the victim's need for protection, rather than on the victim's contribution to the State's prosecution efforts. From a human rights perspective, this approach, which also includes the right of trafficked persons to work and to reintegrate into society, is the most effective response.

See <http://www.antislavery.org/homepage/resources/humantrafficking/italy.pdf> and http://www.enawa.org/NGO/Blinn_Final_Report.pdf

United Kingdom

In the United Kingdom, when victims of trafficking are unwilling or unable to return to their State of origin, the Immigration Service can assess their immigration status. Existing regulations allow the temporary regularization of the immigration status of a victim of trafficking. If a victim expresses a fear of returning to his/her State of origin, the Immigration Service considers the overall situation in the State concerned and whether the particular experiences of the individuals concerned are likely to mean that they face an increased risk. Where a victim has provided material assistance to a police investigation of a serious crime and is required as a witness on criminal proceedings, there are existing arrangements for the police to apply to the Immigration Service for regularization of stay.

(continued)

Examples of good practices (*continued*)

United States

Under the Trafficking Victims Protection Act of 2000, the T visa was established to allow victims of severe forms of trafficking to become temporary residents of the United States. The Act recognizes that returning victims to their State of origin is often not in the best interests of victims and that victims need the opportunity to rebuild their lives without facing the threat of deportation. Recipients of a T visa, after three years, may be eligible for permanent residence status if:

- They are persons of good moral character
- They have complied with any reasonable request for assistance in the investigation during the three-year period and
- They will suffer extreme hardship if they are removed from the United States

The T visa signifies a shift in the immigration law policy, which previously treated victims of trafficking as illegal aliens subject to deportation. The visas allow the victim to remain in the United States to assist federal authorities in the investigation and prosecution of human trafficking cases. When it is determined that the victim may suffer “extreme hardship involving unusual and severe harm” if returned to their home State, the victim is allowed to stay in the United States. This process is designed both to successfully prosecute the traffickers and to provide maximum protection to victims.

See http://www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf

Council of the European Union Directive on the residence permit

The purpose of this Directive is to strengthen the European Union’s legislative framework for combating human trafficking and illegal immigration by granting residence permits of limited duration to victims of human trafficking.

After the expiry of the reflection period (see tool 7.1), where a Government considers that a trafficked person does fulfil the necessary criteria, a residence permit of limited duration can be issued, linked to the length of investigations or judicial proceedings. Article 8 states that the victim, in order to obtain the permit, has to show a clear intention to cooperate with the competent authorities and she or he has to sever all relations with those suspected of the crime of human trafficking and/or actions to facilitate illegal immigration. Residence permit holders shall be authorized to access the labour market, vocational training and education according to the conditions and procedures set out by national Governments.

The full text of the Directive can be found at:

http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_261/l_26120040806en00190023.pdf

TOOL 7.3 Repatriation of victims: obligations of States

Background

This tool explains the provisions of article 8 of the Trafficking in Persons Protocol on the repatriation of victims of trafficking in persons.

Victims facing deportation proceedings

Victims of human trafficking may be facing deportation before they have had a chance to establish that they were indeed victims of trafficking. In many countries, apart from criminal proceedings against offenders, there are often no formal judi-

Trafficking in Persons Protocol

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

cial or administrative proceedings in which a person's status as a "victim of trafficking" can be determined.

A victim's deportation may compromise the future success of a criminal prosecution. Furthermore, article 25, paragraph 3, of the Organized Crime Convention and article 6, paragraph 2 (*b*), of the Trafficking in Persons Protocol both require States parties to ensure that victims are able to present their views and concerns at appropriate stages of proceedings against offenders. This may require the deferral of deportations until that stage has been reached.

Among the measures that can be considered to deal with the many complex situations that arise when a victim is facing deportation, the following should be considered:

- Amending criminal law statutes and other relevant legislation to incorporate the definition of "trafficking in persons" and allow those who claim to be victims an opportunity to do so in appropriate proceedings, including proceedings to deport them as illegal immigrants and proceedings in which they are prosecuted for criminal offences alleged to have been committed while they were victims.
- Adopting legislative or regulatory provisions requiring officials or tribunals responsible for matters relating to illegal immigration and deportation not to proceed with the deportation of a victim while that person is or may be required in criminal proceedings against alleged traffickers or in relation to other offences covered by the Organized Crime Convention, or in civil proceedings against alleged offenders.
- Adopting measures to ensure that, when a victim is deported, provisions are made to ensure their protection. Article 8, paragraph 2, of the Trafficking in Persons Protocol requires that any repatriation of victims must be with "due regard" for "the safety of that person". This requirement applies to all victims, even those who are not being called to testify as witnesses.

Furthermore, according to article 8 of the Trafficking in Persons Protocol, States parties must:

- Facilitate and accept the return of victims who are nationals or have the right of permanent residence, with due regard for their safety
- Verify without unreasonable delay whether a trafficking victim is a national or has the right of permanent residence and issue necessary travel documents for re-entry

TOOL 7.4 Repatriation of victims: return procedures

Background

This tool provides examples of the administrative process and of bilateral international agreements to facilitate the repatriation of victims.

Return procedures

The Trafficking in Persons Protocol (art. 8) requires States to cooperate in the course of the return procedure. Upon a request of the receiving State, States of origin must verify whether the trafficked person is a national or had the right to permanent residence at the time of entering the receiving State. If the person has no proper documentation, States of origin must also issue the necessary travel or other documents to enable the person to travel and to re-enter its territory. Receiving States are obligated to guarantee that the return is with due regard both for the safety of the returnee and for the status of any legal proceedings related to the fact that the person is a victim of trafficking.

The returned victim may still be traumatized and suffering from medical and psychological problems as a result of the experience and/or still fear retribution from the trafficker. The essential elements to address these issues include cooperative bilateral efforts between the destination State and the State of origin and protection from danger and retaliation by the traffickers to the victim upon their return. Cooperation with non-governmental organizations that assist the victim while in the destination State and can continue to do so in the State of return is important. Effective support programmes that complement the assistance provided in the destination State are a critical component for the success of reintegration.

Bilateral agreements

Agreement between Nigeria and the United Kingdom

A memorandum of understanding between Nigeria and the United Kingdom was signed in November 2004 with a view to improving bilateral cooperation to prevent, suppress and punish trafficking in persons. The objectives of the memorandum are:

- To facilitate international cooperation, develop common goals and prevent, suppress and punish trafficking in persons
- To protect victims of trafficking and to provide them with assistance to enable reintegration into their original environment
- To provide mutual support, capacity-building and strengthening of institutional capabilities to effectively prevent, suppress and punish the offence of trafficking in persons

- To promote cooperation between the two countries with a view to attaining the above-mentioned objectives

Regarding return and repatriation of victims, the two countries have agreed to facilitate and accept without undue or unreasonable delay the return of victims to their country of origin, having due regard for the safety of the victim. The country repatriating a victim of trafficking will have regard to the safety, human rights and well-being of such a victim and will allow the victim, subject to provisions in legislation relating to proceeds of crime, to return with their property and possessions.

Non-governmental organizations in destination States

Local non-governmental organizations have taken the role of assisting and supporting victims of trafficking and facilitating their return. Extensive and well-developed programmes coordinated with Governments are in place in many States.

To ensure the implementation of the spirit of the Trafficking in Persons Protocol and the safe return and rehabilitation of trafficked victims, programmes and assistance within destination States should be followed up with complementary intervention within the State of origin. In the destination State, a victim may be more inclined to report the crime and participate in programmes of assistance if the individual understands that support and assistance will also be available when they return to the State of origin.

United States Victims of Trafficking and Violence Prevention Act of 2000

The Act provides that the Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate non-governmental organizations, are to establish and carry out programmes and initiatives in foreign States to assist in the safe integration, reintegration or resettlement, as appropriate, of victims of trafficking. Appropriate steps are also to be taken to enhance cooperative efforts among foreign countries, including States of origin.

Funding is provided either to States directly or through appropriate non-governmental organizations for programmes, projects and initiatives. This includes creation and maintenance of facilities, programmes, projects and activities for the protection of victims.

These principles provide a clear basis for a return and reintegration system that safeguards the human rights of trafficking victims to a safe return and assistance towards reintegration within the State of origin. Following these principles, programmes should offer a broad variety of services tailored to the individual needs of the returnee, such as pre- and post-departure counselling, financial support, integration assistance, follow-up and referral assistance, family mediation, continuing education, opportunities for self-support and job-seeking within the State of origin. This is important for the survival and well-being of the returned victim of trafficking and as a factor in preventing the victim from being trafficked again.

The models provided in these States allow the victim to begin to move towards recovery. It is critical to the success of the restoration objectives of this work that this assistance should continue when the victim returns home. Wherever possible, communication and agreements should be developed between destination and origin States, with monitoring, case management and feedback built in. The victim should be informed of the assistance that will be available when she or he does return home and provided with information on how this may be accessed.

TOOL 7.5 Facilitating the repatriation of victims

Background

Whether they go back voluntarily or not, trafficked women and children usually need support when they return to their family, community or State. Return and reintegration is often a difficult process in which the victims of trafficking face psychological, family-related, health, legal and financial problems. It is often difficult for them to reintegrate into their families and communities. Assistance can be provided to facilitate that process.

Reintegration assistance should be an integral part of voluntary return programmes to address the root causes of trafficking and avoid potential re-trafficking of victims after their return. Reintegration elements to be included are, inter alia, medical and psychological assistance, security protection, vocational training, job referral, subsidized employment, self-employment and microcredits tailored to each individual case, with a view to empowering victims in their State of origin.

Stages in the return and reintegration process

Identification

The process starts with a request for return/repatriation, either directly from the victim or from an institution or a victim assistance organization in the host State. At that stage, it is necessary to verify that the victim really wants to return to the country of origin (in case of voluntary repatriation) or must go back (in case of deportation) and to obtain the following information:

- Who is the returnee (name, address in State of origin and identification papers when available)?
- Where is the victim residing presently (including contact information)?
- Who does she or he want to be reunified with (names, relationship to the victim and address)?

Family tracing

In the State of origin, the support organization needs to trace (search for) the family of the trafficked victim. The purpose of tracing the family is:

- To verify that the family exists and is really related to the victim to make sure that the latter is not handed over to the wrong person
- To obtain the family's current address

Family assessment

Reunification is never a return to the situation that pre-existed before the trafficking incident. The trafficked victim is in many ways not the same as before. The family has had new experiences. A family assessment is conducted in order to determine whether the reunification should take place and, if so, to prepare for the reunification. A family needs assessment is also done to decide whether and what kind of aftercare is needed. The result of the assessment must be shared with the victim to ascertain whether the latter is willing to return under the prevailing family conditions.

In order to achieve a successful reunification and reintegration, the family assessment should assess:

- The causes of the trafficking incident (or, in some cases, the reasons why the victim left his or her family)
- The socio-economic situation of the family
- The attitudes of parents and relatives to the possibility of reunification

Preparing for the family reunification

The family can be helped to prepare mentally and emotionally for the reunification.

Preparing to travel

The returnee needs assistance with getting the necessary travel documents and other relevant papers and making the necessary travel arrangements. For the security of the returnee, someone should accompany the returning victim in both countries. The organizations assisting the returnee in the host and home countries should coordinate the return, also with immigration and government officials in case of an official return. This is necessary to ensure continuous support and guaranteed safety for the returnee.

Mental and emotional support

It is very important to help the returning victim prepare mentally and emotionally for the return and reunification. Support from relatives and friends at home may also be necessary.

Source: Training Manual for Combating Trafficking in Women and Children, developed as part of the United Nations Inter-agency Project on Trafficking in Women and Children in the Sub-Mekong Region, available at:
http://www.un.or.th/traffickingProject/trafficking_manual.pdf

Assistance programmes under the International Organization for Migration

Victims of trafficking are seldom granted permanent residence status on humanitarian grounds and, eventually, most trafficked victims must return to their State of origin or move to another State. Many of these victims need help in returning home. IOM is one of the resources available. In cooperation with local non-governmental organizations, it assists victims in both transit and final destination States in the pre-departure, departure, reception and integration stages.

IOM offers a voluntary return programme for certain categories of irregular migrants who are helped in obtaining travel documents, tickets, transport, reception at the State of origin, some personal items, a small cash allowance and transport to their final destination. When needed, migrants are offered overnight accommodation and a medical examination. The organization offers three types of voluntary return programmes: (a) programmes to all irregular migrants; (b) programmes for irregular transit migrants; and (c) country or caseload specific return programmes.

Upon return to their country of origin, victims can voluntarily join a reintegration programme where shelter, counselling, legal advice and family support are offered. Vocational training and employment assistance can also be made available.

More information about the programme can be obtained at: <http://www.iom.int>

See also *Return Migration: Policies and Practices in Europe* (Geneva, International Organization for Migration, 2004), available at:
<http://www.iom.int/documents/publication/en/return%5Fmigration.pdf>

Difficulties encountered by victims when returning to their State of origin

The Training Manual for Combating Trafficking in Women and Children, developed as part of the United Nations Inter-agency Project on Trafficking in Women and Children in the Sub-Mekong Region, enumerates some of the difficulties faced by victims of trafficking at the time of their return.

- Trafficked women or children often no longer have (or never had) personal documents such as a passport or national identity card and usually need help to travel back safely.
- The woman/child may feel ashamed to return home without having earned a lot of money to support the family or to pay off debts, since that was the reason for going away in the first place. They may feel unsuccessful, as if they have failed their families in this way. The family may also have such feelings towards the returnee.
- In some societies, social acceptance of the person returning to the community may be dependent on whether they were able to send money back while they were away. Even though communities often look down on women who were sex workers, they are likely to be accepted back—at least to a certain extent—if they have sent money before or bring money back for their families. However, most trafficked victims do not manage to send money back to their family while they were at the point of destination, because the wages are not sufficient.
- Opportunities for work in the home community may be very limited, wages are generally lower and some may regard the work as more demanding than the work they did in the place they were trafficked to or were in.
- They may have become used to a different lifestyle elsewhere or abroad, living in cities, wearing different clothes or having more freedom than they had at home. It may be difficult to readjust to the slower pace of life and the isolation in rural areas.
- Women and girls who have worked in the sex industry usually don't share their real experiences with their families and communities, because they feel ashamed. They may also feel alienated from their families owing to the often humiliating experiences they have gone through. At the same time, the community may look down on them; consider them to be spoiled and unfit for marriage and as having a corrupting influence on other young people. Some of them may look for a way out by returning to the sex trade as sex workers or by becoming recruiters themselves.
- The relationship between the woman/child and her (or his) family may have changed due to the trafficking experience. Returning daughters or sons may feel resentful, thinking that they exist only to support their parents and or families. Parents and family members may also feel they have less control over their daughters or sons or wives. In the case of married women, their husband may have taken a girlfriend or another wife while they were away, or the woman may have a boyfriend. Either partner may want to break up the marriage because they no longer trust one another—especially if the woman worked as a sex worker or is suspected to have done so.

(continued)

Difficulties encountered by victims when returning to their State of origin (continued)

- Some returnees come back with an illness. Sometimes the illness may be caused by the conditions in which they were working, as a result of alcohol or drug abuse or because of physical or sexual abuse. The illness may be complicated because they usually have no access to good medical treatment while they are in the host State or place.
- Those who return may have emotional or psychological problems, spinal injuries, respiratory problems, tuberculosis, malnutrition, dental problems, sexually-transmitted diseases or HIV/AIDS, injuries from assault and complications from surgery or abortion. Illness places an additional financial burden on the family. If the illness is HIV/AIDS, it can also cause social shame for the affected person and her/his family. Some women/children who are ill may be afraid of being abandoned by their families.
- Returnees may be afraid of police and other officials, in particular if they have experienced corruption or abuse at their hands during the trafficking. They may also be afraid that they will not be treated well because they left the State or area illegally.
- Fear of some kind of retaliation or persecution by the traffickers is not uncommon, especially for those who were trafficked by people involved in other criminal activities like the arms or drug trade and have seen these activities.
- So, trafficked persons who return home may have various problems. If these problems are not solved and the returnees are not supported, it is likely that they will be abused and exploited again, sometimes even trafficked once more. Because every trafficked person's situation is different, organizations providing support to return and reintegration in the home State need to find out exactly what kind of support the returnee may need. The necessary information can be obtained through careful planning, prior to return, by asking:
 - In the destination State, the person who wishes to return and any institution or organization that is helping or taking care of her/him
 - In the State of origin, the family or nearest relatives to whom the returnee will go back

Source: Training Manual for Combating trafficking in Women and Children, developed as part of the United Nations Inter-agency Project on Trafficking in Women and Children in the Sub-Mekong Region:
http://www.un.or.th/traffickingProject/trafficking_manual.pdf

TOOL 7.6 Protecting returnee and refugee victims of trafficking

Guidelines for Prevention and Response—Sexual and Gender-Based Violence against Refugees, Returnees, and Internally Displaced Persons

Refugees, internally displaced individuals and repatriated refugees are very vulnerable to various forms of abuse and exploitation. Among them, women and children are particularly vulnerable. This tool refers users to *Sexual and Gender-Based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, published by the United Nations High Commissioner for Refugees (UNHCR) in May 2003. Adaptable to different contexts and settings, the Guidelines provide a framework for developing effective prevention and response strategies; since preventing and responding to the complex problem of sexual and gender-based violence require inter-agency, interdisciplinary and multi-sectoral collaboration, the Guidelines also encourage reflection and discussion among organizations and colleagues.

For more information on the Guidelines, see:
http://www.rhrc.org/pdf/gl_sgbv03_00.pdf

Guidelines on the Protection of Refugee Women

The *Guidelines on the Protection of Refugee Women* were published in 1991 to help the staff of UNHCR and its implementing partners to identify the specific protection issues, problems and risks facing refugee women. In doing so, they cover traditional protection concerns such as the determination of refugee status and the provision of physical security. They outline various measures that can be taken to improve the protection of refugee women. Recognizing that prevention is preferable to cure, the Guidelines provide suggestions on actions that can be taken, particularly within traditional assistance sectors, to prevent or deter protection problems from arising. Further, they present approaches for helping women whose rights have been violated. Finally, the Guidelines outline steps that can be taken to ameliorate and report upon protection problems that do arise.

For more information, see:
<http://www.unhcr.ch/cgi-bin/texis/vtx/home?page=PROTECT&id=3b83a48d4>

TOOL 7.7 Repatriation of children

Background

In situations where a child victim is involved, returning the child to the State of origin may not be appropriate. In all cases involving children, special precautions must be taken to ensure that returning children is in their best interests and that, prior to the return, a suitable caregiver such as parent, other relative, other adult caretaker, a government agency or a childcare agency in the State of origin has agreed and is able to take responsibility for the child and provide him or her with appropriate care and protection.

Discussion

Article 6, paragraph 4, of the Trafficking in Persons Protocol provides that State parties, in considering measures to assist and protect victims of trafficking, must take into account the special needs of child victims. When the age of a victim is uncertain and there are reasons to believe that the victim is a child, a State party may wish, in accordance with its legal system, to treat the victim as a child in accordance with the Convention on the Rights of the Child until his or her age is verified. Please see <http://www.unicef.org/crc> for the full text of the Convention.

The OSCE Action Plan to Combat Trafficking in Human Beings recommends that a decision to repatriate a child victim of trafficking in human beings should only be made after having taken into account all of the circumstances of the specific case and if there is a family or special institution in the country of origin to ensure the child's safety, protection, rehabilitation and reintegration.²⁶

In other words, a mechanism needs to be in place to establish, in cooperation with the relevant social worker and child welfare authorities, whether or not repatriation of a child victim is a safe thing to do and ensure that the process takes place in a dignified manner and is governed by a concern for what is in the best interests of the child. States are also expected to establish procedures to ensure that the child is received in the State of origin by an appointed responsible member of the social services of the State of origin and/or the child's parents or legal guardian.

In those cases where the child's return is voluntary or in the best interest of the child, the Trafficking in Persons Protocol encourages States parties to ensure that the child is returned to his or her home State in an expeditious and safe manner. In situations where the safe return of the child to the family or State of origin is not possible, or where such return would not be in the child's best interest, the social welfare authorities should make adequate long-term care arrangements to ensure the effective protection of the child and the safeguard of his or her human rights. In this regard, relevant state authorities in States of origin and of destina-

²⁶The Action Plan was adopted by the OSCE Permanent Council in its decision No. 557/Rev.1, available at: http://www.osce.org/documents/2005/07/15594_en.pdf

tion should develop effective agreements and procedures for collaboration with each other in order to ensure that a thorough enquiry into the individual and family circumstances of the child victim is conducted to determine the best course of action for the child.

UNHCR guidelines for the protection of unaccompanied minors

Unaccompanied children have often had little or no choice in the decisions that have led to their predicament and vulnerability. Irrespective of their immigration status, they have special needs that must be met. UNHCR has developed a set of *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (February 1997). The guidelines, applied in conjunction with the UNHCR publication *Refugee Children: Guidelines on Protection and Care*, provide recommendations on how to ensure that any childcare and protection action is consistent with the principle of the best interests of the child. The guidelines are based on the principle that effective protection and assistance should be delivered to unaccompanied children in a systematic, comprehensive and integrated manner.

The guidelines have three purposes: (a) to promote awareness of the special needs of unaccompanied children and the rights reflected in the Convention on the Rights of the Child; (b) to highlight the importance of a comprehensive approach; and (c) to stimulate discussions in each State on how to develop policies and practices that will ensure that the needs of unaccompanied children are being met. This will inevitably require the close cooperation of a variety of government bodies, specialized agencies and individuals in delivering an effective continuum of care and protection.

The text of the guidelines can be consulted at:

<http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3d4f91cf4>

Legal aid for separated children

United States National Center for Refugee and Immigrant Children

The National Center for Refugee and Immigrant Children was established in the United States in 2005 to provide pro bono services to unaccompanied children released from detention in the United States. Alone and without resources, these children are unable to hire attorneys to represent them as they go through the legal system. Many children have experienced human trafficking, persecution or domestic violence. Without an attorney's assistance, these children are often denied legal protection or the right to stay in the country.

Source: <http://www.refugees.org/article.aspx?id=1260&subm=75&area=Participate>



chapter 8

VICTIM PROTECTION AND ASSISTANCE

The Organized Crime Convention requires a State party to “take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation” (art. 25, para. 1). Generally, the requirements for the protection of victims will be subsumed within legislation providing protection for witnesses. Article 24, paragraph 4, of the Convention requires States parties to ensure that those protections extend to all victims who are also witnesses, but to meet the requirements of article 25, legislators must either extend them to victims who are not witnesses, or adopt parallel provisions for victims and witnesses. In either case, the substantive requirements will be the same, and both articles 24 and 25 make specific references to potential cases of “retaliation or intimidation”. In addition to protection requirements, article 25 also requires measures to assist victims.

Experience has demonstrated that victims of trafficking are reluctant to come to the authorities for a number of reasons:

- Fear of reprisal from traffickers
- Trauma, shame and fear of rejection from family and society upon return to their country of origin
- Hope to be smuggled again for the possibility of a better life
- Lack of trust
- Lack of information on available assistance, particularly from non-governmental organizations

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985 (General Assembly resolution 40/34, annex) recommends measures to be taken on behalf of victims of crime at the international, regional and national levels to improve access to justice and fair treatment, restitution, compensation and assistance. Clauses 14 to 17 describe the victims’ rights to medical, social and psychological assistance, health and social services and other relevant assistance services.

Assistance to victims of crime

A *Handbook on Justice for Victims of Crime and Abuse of Power* was developed by UNODC as a tool for implementing victim service programmes and for developing victim sensitive policies, procedures and protocols for criminal justice agencies and others who come into contact with victims. The Handbook states that the first step in the provision of victim services should always be to provide for the physical and immediate medical needs of victims. Section two of the Handbook provides detailed useful and relevant material on implementing victim assistance programmes. The Handbook can be consulted at:

http://www.unodc.org/pdf/crime/publications/standards_9857854.pdf

UNODC has also published a *Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, available at:

http://www.unodc.org/pdf/crime/publications/standards_policy_makers.pdf

The Trafficking in Persons Protocol specifically addresses the need for comprehensive and coordinated intervention to protect victims of human trafficking and offer them practical assistance.

PROTECTING THE IDENTITY AND PRIVACY OF VICTIMS

Article 6, paragraph 1, of the Trafficking in Persons Protocol supplements the provisions of the Organized Crime Convention and requires that measures are taken to protect the privacy and identity of victims, including by making legal proceedings confidential, to the extent that this is possible under domestic law. A State's procedural laws may require amendment to ensure that courts have the authority to shield the identities or otherwise protect the privacy of victims in appropriate cases. This may include keeping the proceedings confidential, for example by excluding members of the public or media representatives, or by imposing limits on the publication of specific information, such as details that would permit identification of the victim.

FACILITATING THE PARTICIPATION OF VICTIMS IN PROCEEDINGS

The Trafficking in Persons Protocol creates an obligation on States parties to provide victims with information and an opportunity to present their views and concerns during all proceedings.²⁷ In other words, the obligation is to allow concerns to be presented, which could include either written submissions or oral statements. This is to be done in a manner not prejudicial to the rights of the defence.

²⁷The basic obligation to ensure that victims are permitted an opportunity to participate is set out in article 25, paragraph 3, of the Organized Crime Convention. That requirement applies to all offences covered by the Convention, which includes the trafficking offence under the Protocol.

Trafficking in Persons Protocol

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

ENSURING THE PHYSICAL SAFETY OF VICTIMS

The requirements of article 6 of the Trafficking in Persons Protocol supplement the provisions of the Organized Crime Convention concerning the provision of assistance and protection to victims.

Article 24 of the Convention refers to the dangers represented by “retaliation or intimidation” for those who cooperate with authorities, whereas Protocol article 9, subparagraph (1)(b), also refers to protection from the risk of “revictimization”, a significant problem in trafficking cases.

The fears of victims are often fully justified by the very real prospect of retaliation if they assist the competent authorities. It is therefore essential that programmes to protect victims both during and after they have cooperated are implemented and adequately resourced. Such protection measures may include:

- (a) Physical protection, such as relocation and permitting limitations on the disclosure of information concerning identity and whereabouts;
- (b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness.

Under the Convention and the Trafficking in Persons Protocol, the basic obligation to protect victims applies to any State party in which the victims are found, including origin, transit, destination and repatriation States.

Contacts with State authorities are usually very problematic for the victims, especially when traffickers have used fear of such authorities to intimidate victims. In such cases, non-governmental organizations may play an important role as an intermediary.

Organized Crime Convention

Article 25

Assistance to and protection of victims

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.
2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention
3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

PROVIDING THE POSSIBILITY OF OBTAINING COMPENSATION

Article 6, paragraph 6, of the Protocol refers to the need to provide the possibility for victims to seek and obtain compensation. When the possibility of obtaining compensation does not exist under national law, legislation may be required to establish appropriate schemes. The Protocol does not specify any potential source of compensation. Consequently any or all of the following general options would probably meet the requirements of the Protocol:

- Provisions allowing victims to sue offenders or others under statutory or common-law torts for civil damages.
- Provisions allowing criminal courts to award criminal damages (i.e. to order for that compensation to be paid by offenders to victims) or to impose orders for compensation or restitution against persons convicted of offences.
- Provisions establishing dedicated funds or schemes whereby victims can claim compensation from the State for injuries or damages suffered as the result of a criminal offence.

PROVIDING SOCIAL ASSISTANCE AND PROTECTION TO VICTIMS

Article 6, paragraph 3, of the Protocol contains an extensive list of support measures intended to reduce the suffering and harm caused to victims and to assist in their recovery and rehabilitation.

Apart from the humanitarian goal of reducing the effects on victims, there are several major practical reasons why this should be done. The first is that providing support, shelter and protection for victims increases the likelihood that they will be willing to cooperate with and assist investigators and prosecutors, a critical factor in a crime where the victims are almost always witnesses and intimidation by traffickers has repeatedly been cited as a major obstacle to prosecution. Such support and protection is not to be made conditional upon the victim's capacity or willingness to cooperate in legal proceedings.

INTEGRATION OF SERVICES

A most critical factor with respect to assistance and support programmes for victims of trafficking is to ensure that the services are comprehensive and integrated. Assistance in medical, psychological and legal services, accommodation, and education and training will not exist satisfactorily in isolation. Services must work closely together in coordinated and participative ways in the best interests of the victims they are assisting. Wherever possible, victims should be able to access a "one-stop shop". This is most important for child victims. Strong partnerships between Governments and non-governmental organizations and among non-governmental organizations provide the most effective means of offering coordinated services. The most effective services are those that are offered in a holistic manner to address the various needs of each individual.

TOOL 8.1 Access to information and legal representation

Background

States need to encourage the participation of victims of trafficking in the criminal proceedings against the trafficker. They are an important source of evidence for the successful prosecution of a trafficking case. This tool explains the importance of providing victims of trafficking with access to information and, when required, legal representation to facilitate their participation in proceedings.

Victims should be supported in their efforts to participate in the justice system through direct and indirect means, timely notification of critical events and decisions, provision in full of information on the procedures and processes involved, support of the presence of victims at critical events and assistance when there are opportunities to be heard. The structure of the justice system should take into account the obstacles which many victims encounter in seeking to obtain such access, owing to factors such as culture, race, language, resources, education, age or citizenship.

Source: United Nations, *Handbook on Justice For Victims of Crime and Abuse of Power* (chap. II, sect. D), available at:

http://www.unodc.org/pdf/crime/publications/standards_9857854.pdf

Information to victims

Trafficked persons need information, in a language that they understand, about the justice process and about their own rights and responsibilities as participants in criminal proceedings. Access to information is an important starting point for the participation of victims of trafficking in the criminal process. The most extensive list of rights is of no practical use to victims if they are not informed of those rights. Information helps to prepare and familiarize victims with the criminal proceedings and to ease their psychological stress and their anxiety. It is also a means of empowerment and enables victims to participate actively in the case and enforce their rights.

The Trafficking in Persons Protocol requires States parties to provide victims of trafficking with information on relevant court and administrative proceedings and with counselling and information, in particular about their legal rights, in a language they can understand.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) states that victims of crime should be informed of their rights to seek redress, of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and when they have requested such information, and of the availability of health and social services and other relevant assistance.

In some jurisdictions, the legal right to receive information about various proceedings is limited to certain groups of victims. In some cases, only those who play a formal role in criminal proceedings, for example as witnesses or civil claimants or private prosecutors, are given basic information.

Some States have established a legal duty of authorities involved in criminal proceedings to provide information to victims of crime. Part of the advantage of such an approach is that it raises the officials' awareness of their responsibility towards victims.

The mere existence of a legal obligation is not sufficient to ensure that victims have access to information. Additional measures, such as the provision of translation services and legal assistance, are necessary to ensure victims can effectively use this information.

Legal representation and assistance

Victims are often deterred from participating in various legal proceedings because simple, accessible and timely legal advice is not available to them when they seek assistance and support. Legal advice should be made available as part of the integrated support offered by the victim assistance programme. Because many victims of trafficking are fearful of Governments and bureaucratic authorities, the provision of legal assistance and representation is especially important. The development of close links between non-governmental organizations providing legal assistance and law enforcement agencies can greatly facilitate the protection of victims and their rights. The development of formal and informal protocols and procedures between these agencies should be part of any integrated victim assistance strategy.

The task of legal counsels is to inform victims about their rights and role in criminal proceedings and to accompany them throughout the process. They assist victims in expressing their views and enforcing their procedural rights. Legal counselling also prepares victims for the criminal proceedings and can reduce the risk of imposing further traumatic experiences on the victims. It increases the chance of sound and coherent witness statements and contributes to the successful prosecution of the traffickers. There is a clear relationship between these victims' access to legal representation and successful prosecution outcomes.

Many jurisdictions allow victims to hire a lawyer to advise and accompany them throughout the proceedings, if they pay for these services themselves. Victims of trafficking, however, usually have no financial means to pay for legal counselling. Therefore, it is necessary to make available state-paid legal counselling. Furthermore, the professional legal counsels should be familiar with the needs and situations of victims of human trafficking and have acquired the required expertise to represent them effectively during the various legal proceedings.

TOOL 8.2 Assistance to victims

Background

The Trafficking in Persons Protocol requires States parties of origin and of destination to consider implementing measures to provide for the physical, psychological and social recovery of trafficked victims. Governments should, in cooperation with non-governmental organizations, provide the following types of support: (a) medical; (b) psychological; (c) language and translation; (d) rehabilitation, skill training and education; and (e) shelter. This tool describes the assistance services in general terms.

The most critical factor in assistance and support programmes is that they should be both comprehensive and integrated. Assistance in medical, psychological, legal services, accommodation, education and training will not exist satisfactorily in isolation. To plan and provide services in a coordinated and collaborative manner is in the best interests of victims. A “one-stop” access to all the services required is still the best service delivery option for victims.

Medical

Victims of trafficking will probably have immediate medical needs, which need to be addressed in the destination State as a first concern. They may have physical injuries or have been exposed to the risk of disease. They may have been forced to use narcotic or psychoactive drugs as a means of controlling them. The victims themselves may have developed drug addictions to assist them to cope with the situation. They may have mental health problems with associated physical conditions. They may have been unaware of sexual health issues and been made to endure unsafe and violent sexual practices, which increase the risk of contracting HIV/AIDS and other sexually transmitted diseases. Initial medical examinations and discussions, preferably undertaken in partnership with appropriate non-governmental organizations who can provide a support person and interpreter, are a first step so that obvious injuries can be identified and a treatment plan initiated.

Victims who, for a variety of reasons, return home without having received medical assistance and support in the destination State must receive medical attention as soon as they return. Health workers in the State of origin have a difficult problem facing them in their ability to identify these individuals. Partnerships with non-governmental organizations can potentially play an important role in providing information and training to health-care professionals so that this identification can happen.

Psychological

The trafficking experience may create a systematic disruption of basic and core attachments to families, friends and religious and cultural systems; the destruction

of central values about human existence; and the creation of shame following brutal acts including torture and rape. Relationships may be changed, including those with the general community and authority figures, leading to a general sense of mistrust of others and a fear of forming new relationships. The capacity for intimacy may be altered, grief may be pronounced and depression may become overwhelming. The results of the experience can be everlasting, even with treatment. Strategies and assistance for the victims of trafficking focus on the goals of recovery and re-establishment of the person's life, primarily in the State of origin.

Legal

Victims of trafficking require legal assistance, in particular when they consent to act as a witness in a criminal prosecution of the trafficker and in their position as an illegal immigrant. Because many victims of trafficking will be fearful of Governments and bureaucratic authorities, the role of providing legal assistance is a particularly significant one. The development of close links between non-governmental organizations working in the fields of human rights and legal aid with law enforcement agencies and victim support programmes is optimal and facilitates the protection of and assistance to victims.

Language and translation

Victims of trafficking remain very vulnerable when the services they receive are in a language they cannot understand. Language and cultural considerations are important factors in service delivery and the provision of information. Services that are provided in conjunction with liaison staff from cultural and linguistic groups allow the victims to gain a better understanding of the bureaucratic processes they need to endure. In many instances, it may be important to provide the services of a translator of the same sex as the victim.

Rehabilitation, skill training and education

Whether victims of trafficking are permitted to remain in the destination State or eventually return home, education, training and rehabilitation assistance should be provided as soon as possible. When victims receive a temporary residence permit, they should be able to access the required services immediately.

Shelter

In order to escape from the control of traffickers, victims of trafficking need a safe and secure refuge. The importance of having access to a safe shelter can hardly be overemphasized. Despite the prospect of continued abuse, victims do not leave the abusive or exploitative situation because they do not have a safe place to go to.

The victims' need for safe shelter is both immediate and long term. Assistance programmes for victims recognize this requirement and attempt to provide different

types of shelter, based on the needs of the victims at the stage of recovery they have reached. The range of shelter arrangements available should be present in both the State of destination and the State of origin. Finally, another critical aspect of safe shelter programmes for victims of human trafficking is that other assistance programmes should accompany them.

Examples of promising practices

Migrants and Refugees Centre (Caritas, Beirut)

Two projects are currently being implemented by Caritas in Lebanon at their Migrants and Refugees Centre aimed at preventing trafficking in persons.

The first project is for the protection of the human rights of migrant workers in Lebanon: it includes social counselling, legal aid, public awareness-raising and promotion of behavioural change and orientation sessions to help migrant workers to protect themselves from abuse and to offer each other some mutual support.

The second project aims to create a more favourable environment that will reduce the incidence of abuse and exploitation and may generally reduce situations of trafficking. The project is greatly reinforcing the capacities for protection and assistance for women so they can escape abusive and exploitative situations and find dignified and durable solutions.

These projects allow migrants to protect themselves from abuse, exploitation and detention by helping them to understand and use the legal process and rely on social networks. Migrant workers benefit from orientation seminars that explain their rights and responsibilities in Lebanon and offer the opportunity to practise skills that will help them avoid abuse, exploitation and detention. Through these orientation seminars and other communication channels, migrants are informed of legal and social services available to them in Lebanon in cases where they believe that their rights are being violated.

The prevention is exercised through negotiation with concerned embassies, security agencies and recruiting agents to gain access to newly arrived migrant workers for orientation sessions. These seminars are also being publicized at gathering points for migrants and through word of mouth.

Coordination Centre for the Protection of Children's Rights (Thailand)

In response to the special needs of children as victims, the Coordination Centre for the Protection of Children's Rights has upgraded existing shelters to allow for specialized rooms and will fund a multidisciplinary intake unit that includes professionals such as physicians, social workers and prosecutors. The Centre is also establishing a location to house staff and a database to track cases and provide rooms for counselling of families. Evidence indicates that child victims may have longer-term and more serious reactions to trauma and that this one-stop approach further assists in the protection of the child.

(continued)

Examples of promising practices (*continued*)

Free-standing hospice (Maiti, Nepal)

In some circumstances victims return to their country so ill that their shelter needs are permanent. This is particularly significant for victims who are infected with life limiting diseases such as HIV/AIDS and forms of hepatitis. The hospice provides permanent shelter to seriously ill girls infected with various sexually transmitted diseases along with medical treatment and various skills training for those who are able to pursue them.

Comité Contre l'Esclavage Moderne (France)

The Comité Contre l'Esclavage Moderne provides help and protection to victims of domestic slavery, largely from West Africa and Madagascar. These victims often possess no official form of identification and to return to their State of origin is out of the question. The Comité sets up individualized programmes that aim towards permanent integration into French society. The comprehensive assistance begins with urgent shelter in a protected flat. As the individuals recover, they are entitled to legal aid to defend their rights in court and to help obtain work permits. The critical success factor of this programme is that the provision of shelter is matched to comprehensive and focused programmes of assistance, with the type of shelter matching the stage of recovery. Specialized non-governmental organizations provide the expertise and operational management with funding from the Government.

International Organization for Migration (Skopje)

IOM has supported the authorities in the former Yugoslav Republic of Macedonia to equip a government-run urgent reception and transit shelter for trafficked women and stranded immigrants in distress. Prior to the establishment of this shelter, victims were held in police stations prior to deportation. The facility is kept under police protection and IOM Skopje provides victims with direct medical assistance and psychological counselling before they return to their State of origin.

Servizio Migranti Caritas (Turin, Italy)

Operated by the Department of Equal Opportunities, this programme operates a rehabilitation programme that specializes in assisting victims by making them independent through work. The group's work also features cooperation with other local organizations, training of social workers, the use of cultural mediators and psychologists and continuous legal and social aid. The victims are assisted with Italian lessons and work training, which is funded through the Diocesan Labour Exchange. During this training, the young women are monitored by a social worker and a psychologist.

(*continued*)

Examples of promising practices (*continued*)

Little Rose Shelter (Ho Chi Minh City, Viet Nam)

The Little Rose Shelter seeks to contribute to the development of an effective and sustainable model for the rehabilitation and reintegration of trafficked children who have returned to Viet Nam from Cambodia. The shelter provides the girls with vocational training to be able to find a job after their four-month rehabilitation period. If the girls need a longer rehabilitation period, this can be provided.

Besides vocational training, the girls in the shelter are provided with courses about life skills, child rights training, literacy classes, health-care services and counselling. Each group of returned victims from Cambodia consists of 15 girls. They have several opportunities to exchange information about their experiences, which is a good method to help them deal with their trauma. All girls who complete the four-month residency at the shelter receive a reintegration grant. The Women's Union, the main counterpart to IOM in this project, coordinates the reintegration of the children into their communities in cooperation with a local committee for population, family and children.

Campaign to Rescue and Restore Victims of Human Trafficking (United States)

In the United States, under the Trafficking Victims Protection Act of 2000 the United States Department of Health and Human Services is designated as the agency responsible for helping victims of human trafficking to become eligible to receive benefits and services so they may rebuild their lives safely in the United States. As part of this effort, the Department has initiated the Campaign to Rescue and Restore Victims of Human Trafficking to help identify and assist victims of human trafficking in the United States.

The intent of the Campaign is to increase the number of identified trafficking victims and to help those victims receive the benefits and services needed to live safely in the United States. The first phase of the campaign focuses on outreach to those individuals who are most likely to encounter victims on a daily basis, but may not recognize them as victims of human trafficking. By initially educating health-care providers, social service organizations and the law enforcement community about the issue of human trafficking, it is hoped to encourage such intermediaries to look beneath the surface by recognizing clues and asking the right questions, because they may be the only outsiders with the chance to reach out and help victims.

Source: United States Department of Health and Human Services, available at: http://www.acf.hhs.gov/trafficking/rescue_restore/index.html

TOOL 8.3 Assistance to child victims

Background

Under national law, child victims of trafficking may fall under the protection of various child protection laws and regimes. Local child protection authorities may have a mandated obligation to protect and assist these children whether or not they legally are citizens of the State. The role of local child protection and welfare organizations, either governmental or non-governmental, must be clarified to ensure that these agencies are properly mobilized and fully play their role as part of a national strategy to combat trafficking in persons.

Child victims of trafficking are sometimes in need of urgent action to secure their safety because their life may be at risk or they may be likely to suffer serious harm. The protection of child victims must sometimes involve their being held in confinement. Action to ensure the safety of children must be respectful of their rights. This tool provides examples of measures to ensure the safety of child victims of trafficking that take into account the rights and special needs of children.

Provisions of the Trafficking in Persons Protocol

Article 6, paragraph 4, of the Trafficking in Persons Protocol provides that States parties, in considering measures to assist and protect victims of trafficking, must take into account the special needs of child victims. When the age of a victim is uncertain and there are reasons to believe that the victim is a child, a State party may wish to, in accordance with its legal system, treat the victim as a child in accordance with the Convention on the Rights of the Child until his or her age is verified. In addition, a State party may also wish to consider:

- Appointing, as soon as the child victim is identified, a guardian to accompany the child throughout the entire process until a durable solution in the best interest of the child has been identified and implemented. To the extent possible, the same person should be assigned to the child victim throughout the entire process.
- Ensuring that, during the investigation, as well as the prosecution and trial hearings where possible, direct contact between the child victim and the suspected offender is avoided. Unless it is against the best interest of the child, child victims have the right to be fully informed about security issues and criminal procedures prior to deciding whether or not to testify in criminal proceedings. During legal proceedings, the right to legal safeguards and effective protection of child witnesses needs to be strongly emphasized. Child victims who agree to testify should be accorded special protection measures to ensure their safety.
- Providing appropriate shelters for child victims in order to avoid the risk of revictimization. Child victims should be hosted in safe and suitable accommodation, taking due account of their age and special needs.

- Establishing special recruitment practices and training programmes so as to ensure that individuals responsible for the care and protection of child victims understand their needs, are gender-sensitive and possess the necessary skills both to assist children and ensure the safeguard of their rights.

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan includes a section relating to the protection of child victims of trafficking

10. Protection of children

- 10.1 Ensuring that the special needs of children and the best interests of the child are fully taken into account when deciding upon appropriate housing, education and care. In appropriate cases, if there is no direct threat to the safety of the child, providing the children with access to the state educational system.
- 10.2 Deciding on the repatriation of a child victim of [trafficking in human beings] only after having taken account of all the circumstances of the specific case and if there is a family or special institution in the State of origin to ensure the child's safety, protection, rehabilitation and reintegration.
- 10.3 Considering the provisions outlined in the United Nations High Commissioner for Refugees Guidelines for the Protection of Unaccompanied Minors when elaborating policies targeted at this risk group, and in particular for those who are not in possession of identification documents.
- 10.4 Using bilateral and/or regional agreements on fundamental principles of good reception of unaccompanied children in order to combine efforts targeted at the protection of children.
- 10.5 Ratifying or acceding to, and fully implementing, the Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography.

Source: http://www.osce.org/documents/pc/2005/07/15594_en.pdf

United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking

Recommended guidelines

Guideline 8

Special measures for the protection and support of child victims of trafficking

The particular physical, psychological and psychosocial harm suffered by trafficked children and their increased vulnerability to exploitation require that they be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interests of the child must be a primary consideration in all actions concerning trafficked children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. Child victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs.

States and, where applicable, intergovernmental and non-governmental organizations, should consider, in addition to the measures outlined under Guideline 6:

1. Ensuring that definitions of trafficking in children in both law and policy reflect their need for special safeguards and care, including appropriate legal protection. In particular, and in accordance with the Palermo Protocol, evidence of deception, force, coercion etc. should not form part of the definition of trafficking where the person involved is a child.
2. Ensuring that procedures are in place for the rapid identification of child victims of trafficking.
3. Ensuring that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.
4. In cases where children are not accompanied by relatives or guardians, taking steps to identify and locate family members. Following a risk assessment and consultation with the child, measures should be taken to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest.
5. In situations where the safe return of the child to his or her family is not possible, or where such return would not be in the child's best interests, establishing adequate care arrangements that respect the rights and dignity of the trafficked child.
6. In both the situations referred to in the two paragraphs above, ensuring that a child who is capable of forming his or her own views enjoys the right to express those views freely in all matters affecting him or her, in particular concerning decisions about his or her possible return to the family, the views of the child being given due weight in accordance with his or her age and maturity.

(continued)

United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking (*continued*)

7. Adopting specialized policies and programmes to protect and support children who have been victims of trafficking. Children should be provided with appropriate physical, psychosocial, legal, educational, housing and health-care assistance.
8. Adopting measures necessary to protect the rights and interests of trafficked children at all stages of criminal proceedings against alleged offenders and during procedures for obtaining compensation.
9. Protecting, as appropriate, the privacy and identity of child victims and taking measures to avoid the dissemination of information that could lead to their identification.
10. Taking measures to ensure adequate and appropriate training, in particular legal and psychological training, for persons working with child victims of trafficking.

Source: http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Guidelines on Justice for Child Victims and Witnesses of Crime

The International Bureau for Children's Rights has published *The Rights of Child Victims and Witnesses of Crime: a Compilation of Selected Provisions Drawn from International and Regional Instruments* and has developed a set of Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (subsequently adopted by the Economic and Social Council in its resolution 2005/20).

Both resources can be consulted at: <http://www.ibcr.org/>

Regarding medical assistance for child victims of human trafficking for sexual purposes, see also chapter 7 of the WHO Guidelines for medico-legal care for victims of sexual violence, which can be found at:

http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/

TOOL 8.4 Medical assistance

Background

Health risks and detrimental consequences of trafficking for the victims of human trafficking should be addressed in all stages of the intervention. Prevention and treatment of HIV/AIDS and sexually transmitted diseases are an integral part of assistance programmes. This tool examines what kind of medical assistance victims typically require.

Description

Upon discovery or disclosure, victims of trafficking may have immediate medical needs that should be addressed promptly, as a first concern, in the destination State. They may have suffered physical injuries or been subjected to exposure to dangerous diseases. They may have been forced to use narcotic or psychoactive drugs by traffickers as a means of controlling them. The victims themselves may have developed drug addictions as a means of coping with the situation. They may suffer from various mental health problems and their associated physical conditions.

Obvious physical injuries should be addressed first, followed by sensitive and thorough screening processes. Where drug and substance abuse are found, detoxification and treatment services should be made available. In many instances, the victims' drug addiction problem will need to be addressed before other psychological needs are addressed.

Victims may be unaware of sexual health issues and have had to endure unsafe and violent sexual practices that increased their risk of contracting HIV/AIDS and other sexually transmitted diseases. Among women involved in prostitution, those who have been trafficked commonly have the least power in negotiating the conditions of sex. They will commonly have been denied the right to have access to medical treatment and social assistance. In some cases, they may have been forced to undertake HIV/AIDS testing and had the results withheld from them, or alternatively been given a false sense of security by being told that they were free of disease. The provision, upon demand, of strictly confidential testing services for HIV/AIDS and other sexually transmitted diseases is important. All testing should be accompanied with appropriate pre- and post-test counselling.

The rest and reflection period provided in some States provides time for victims to receive a medical examination and some urgent treatment if necessary. Medical assistance, in all cases, should be provided in an appropriate and culturally sensitive manner.

Coordination of the medical attention and treatment received by victims in both the destination State and the State of origin provides the best outcome for the victim and is the most likely way to promote recovery. Medical programmes for victims of trafficking may also benefit from working with regional offices of WHO.

See also the WHO Guidelines for medico-legal care for victims of sexual violence, which can be found at:

http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/

Common health issues experienced by victims of human trafficking

Trafficking victims often suffer from an array of physical and psychological health issues stemming from inhumane living conditions, poor sanitation, inadequate nutrition, poor personal hygiene, brutal physical and emotional attacks at the hands of their traffickers, dangerous workplace conditions, occupational hazards and general lack of quality health care.

Preventive health care is virtually non-existent for these individuals. Health issues are typically not treated in their early stages, but tend to fester until they become critical, even life-threatening situations.

In many cases, health care is administered at least initially by an unqualified individual hired by the trafficker with little if any regard for the well-being of their “patients”—and even less regard for disease, infection or contamination control.

Health issues seen in trafficking victims include the following:

- Sexually transmitted diseases, HIV/AIDS, pelvic pain, rectal trauma and urinary difficulties from working in the sex industry.
- Pregnancy, resulting from rape or prostitution.
- Infertility from chronic untreated sexually transmitted infections or botched or unsafe abortions.
- Infections or mutilations caused by unsanitary and dangerous medical procedures performed by the trafficker’s so-called “doctor”.
- Chronic back, hearing, cardiovascular or respiratory problems from endless days toiling in dangerous conditions in agriculture, sweatshop or construction.
- Weak eyes and other eye problems from working in dimly lit sweatshops.
- Malnourishment and serious dental problems. These are especially acute with child trafficking victims who often suffer from retarded growth and poorly formed or rotted teeth.
- Infectious diseases like tuberculosis.
- Undetected or untreated diseases, such as diabetes or cancer.
- Bruises, scars and other signs of physical abuse and torture. Sex-industry victims are often beaten in areas that won’t damage their outward appearance, like their lower back.
- Substance abuse problems or addictions either from being coerced into drug use by their traffickers or by turning to substance abuse to help cope with or mentally escape their desperate situations.

(continued)

Common health issues experienced by victims of human trafficking (cont.)

- Psychological trauma from daily mental abuse and torture, including depression, stress-related disorders, disorientation, confusion, phobias and panic attacks.
- Feelings of helplessness, shame, humiliation, shock, denial or disbelief.
- Cultural shock from finding themselves in a strange country.

Source: United States Department of Health and Human Services, available at: http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/health_problems.html

A publication of the London School of Hygiene and Tropical Medicine entitled *Health Risks and Consequences of Trafficking in Women and Adolescents: Findings from a European Study* can be found at: <http://www.lshtm.ac.uk/hpu/docs/traffickingfinal.pdf>

TOOL 8.5 Psychological assistance**Background**

This tool examines the common psychological reaction of victims to the experience of trafficking and outlines the type of psychological assistance that they are likely to require.

Symptoms

The common psychological reactions of victims of trafficking are likely to include:

- Fear of being alone, of being found and punished by the trafficker, of their family being punished and of the consequences of being an “illegal immigrant”
- Guilt that they have made such a mistake, become “criminals”, brought trouble to their families or broken mores of traditional culture
- Anger that they have allowed this to happen and that their lives are so destroyed
- Feelings of betrayal by the traffickers, their own families and society
- Lack of trust in themselves and those around them
- Helplessness and lack of control over their lives

The trafficking experience may create a systematic disruption of basic and core attachments to families, friends and religious and cultural systems, the destruction

of central values about human existence and shame. Post-traumatic stress disorder as a result of brutal acts including torture and rape that the victims have experienced can also frequently be observed. A victim's way of relating to others, the general community or even authority figures may have changed drastically, leading to a general sense of distrust of others and a fear of forming new relationships. The victim's capacity for intimacy may be altered, grief may be pronounced and depression may become overwhelming.

Intervention strategies and assistance programmes for victims of trafficking must be based upon an understanding of the psychologically painful experience of the victims and must focus on assisting the victims' full recovery and the re-establishment of a normal life. A number of basic elements of the process of recovery can be identified. They include:

- **Restoring safety.** Unless a sense of safety is guaranteed nothing much can be achieved.
- **Enhancing control.** The trafficker has sought to take control away from his victim; in order to move forward, strategies must seek to give people as much control over the recovery process as possible.
- **Restoring attachment and connections to others.** The fundamental challenge for the assistance workers is to provide acts that are caring, that are giving and that are kind so that connections can be re-established and victims can begin to realize that there are others in the community who will care for them.
- **Restoring meaning and sense of purpose, as well as personal dignity and self-respect.**

The Victorian Foundation for Survivors of Torture in Australia provides the chart opposite to illustrate these principles and processes. While the chart focuses specifically on survivors of torture, the elements and principles described within the chart provide a useful model for programmes of assistance for victims of trafficking.

Models such as this will provide guidance to therapists in the most appropriate and useful ways to address the psychological needs of victims of trafficking. Immediate crisis counselling should be followed by a longer-term therapeutic intervention to address the needs of the victims as they progress towards recovery. In the case of children, psychological assessment and therapeutic interventions should be provided by specialists in childcare and should involve family members whenever possible.

**Causes of the trauma reaction, its core components and recovery goals
(Aristotle: Victims Referral and Assistance Service, Melbourne, 1999)**

<i>Acts perpetrated by the persecutory regime</i>	<i>Social and psychological experiences that lead to trauma reactions</i>	<i>Core components of the trauma reactions</i>	<i>Recovery goals</i>
Violence Killings Assault Disappearances	Chronic fear Chronic alarm Inescapability Unpredictability	Anxiety Feelings of helplessness Loss of control	Restore safety Enhance control Reduce fear and anxiety
Death Separation Isolation Prohibition of traditional practices	Disruption of connections to family, friends, community and cultural beliefs	Relationships changed Grief Depression	Restore attachment and connections to others Offer emotional support and care
Deprivation of human rights Killing on mass scale Exposure to boundless human brutality	Destruction of values central to human existence	Shattering of previously held assumptions: loss of trust meaning, identity and future	Restore meaning and purpose to life
Invasion of personal boundaries Impossible choices	Humiliation and degradation	Guilt Shame	Restore dignity and value Reduce excessive shame and guilt

TOOL 8.6 Language and translation assistance

Background

Language and cultural considerations can create some practical issues for the delivery of services and the dissemination of information to victims of trafficking. Since the majority of victims of trafficking are likely to seek assistance in the destination State, where the dominant culture and language differ from their own, these issues are significant.

Description

Support services provided to victims of trafficking need to provide language and translation assistance in a culturally responsible and sensitive manner. Ethno-graphically specific, language specific and culturally responsive services will help meet the needs of victims of trafficking. Police and legal services should provide liaison staff from the same culture and language as the victims and help them to understand the bureaucratic process in which they are becoming involved.

When possible, allowing victims to choose a service provider with whom they share the same cultural and linguistic background should be encouraged. Given a choice, victims will often choose a generalist service provider who speaks their own language over a specialist who cannot communicate with them as easily.

During medical examinations, screening and treatment, an interpreter should be present who is acceptable to the victim. In many instances, it is important for the interpreter to be of the same gender as the victim. In the case of child victims, interpreters should have special training and understanding in children's development stages, cognitive development and emotional needs. A support person with whom the child victim is familiar should also be present whenever services are being accessed through an interpreter.

All information materials relevant to the services being accessed by the victims should be provided, whenever possible, in their own language. In the development of this information material, the relevant cultural and linguistic communities should be consulted to ensure that the translations are user-friendly.

Support services should also be careful not to overgeneralize various characteristics of ethnic communities so as not to create some negative stereotypes. It is important for services to identify the values of an ethnic community to which a victim may belong without necessarily ascribing cultural universality to these values or assuming that the victim necessarily subscribes to them.

TOOL 8.7 Shelter programmes

Background

One of the first steps to be taken by victims wishing to escape from the control of traffickers is to find a safe and secure refuge. Despite the prospect of continued abuse, many victims choose to stay because the prospect of leaving involves more danger and greater vulnerability. The lack of a safe and secure refuge often results in the victims returning to their abusers after an initial escape because of the fear of violence and the intimidation they are subjected to. It is therefore critical that real and practical options for the safety and security (both in the short and long term and in both the State of destination and that of return) are made available to victims of trafficking. This tool reviews some of the basic considerations that must be kept in mind in creating safe shelters for victims.

Type of shelter

The victims of trafficking have both short-term and long-term needs for safe shelter. The nature of the shelter they need may evolve as their individual situation changes and they advance in their own process of recovery. The need they experience may be for one of the following types of shelter:

- An immediate, safe and short-term shelter
- A temporary but safe and secure shelter with opportunities for other needs to be met (e.g. medical, psychological, legal)
- A halfway house, hostel, transitional housing or other assisted lodging arrangement
- A place where they can live independently

The most basic and immediate requirement is a protected and secure shelter at the time of contacting the authorities or the agency providing assistance or before deportation or repatriation. In these shelters the victim is protected from harm from the trafficker and has access to immediate short-term assistance. This may include basic medical attention, short-term counselling, legal information, emergency financial assistance and access to information.

Shelters in the State to which the victims are returning will often need to provide some support to facilitate the rehabilitation process and the victims' reintegration with their families or communities. Without the protection of the shelter and the interim assistance it can provide, victims may be at risk of further harassment or revictimization.

For example, the IOM office in Kyiv has opened a rehabilitation centre and a shelter to provide protection and support to returned victims of trafficking. Working with Ukrainian health authorities, IOM provides social and psychological counselling, psychiatric care, gynaecological and medical examinations and treatment for the victims in a sensitive and confidential manner. IOM works with a Ukrainian network

of some 15 non-governmental organizations to provide assistance to victims and with the authorities to facilitate their reintegration process. After victims leave the IOM shelter, regular contact is maintained to monitor their reintegration process and to determine whether they or their families have been threatened or harassed.

In States where temporary visas and other programmes enable victims to stay for some time in the destination State, victim support programmes in partnership with Governments and immigration authorities provide shelters where victims can stay without fear or unwanted interference for a period of time while they recover from their ordeal and find some new direction for their lives. The essential elements of these shelters include a supportive environment, the provision of information about available services and access to existing community facilities and services.

When victims are not faced with imminent deportation or repatriation, less institutionalized forms of shelter may be appropriate. For example, in Italy a special assistance programme makes it possible for victims to attend different types of shelters before being given lodgings in independent flats. Language classes and vocational training courses in local companies are offered. These training courses make it possible for victims to learn the rudiments of a job. Similarly in France, the Comité contre l'esclavage moderne provides help and protection to victims of domestic slavery, largely from West Africa and Madagascar. The comprehensive assistance provided to these victims begins with urgent shelter in a protected flat. As the victims recover from their ordeal, they are then lodged in hostels or halls of residence, or are taken in by volunteer families. They are entitled both to legal aid to help them defend their rights in court and to administrative assistance to help them obtain residence and a work permit. At the same time, victims are provided with continuous assistance as they move towards independence.

The critical aspect of these programmes is that provision of shelter is matched to comprehensive and focused programmes of assistance, with the type of shelter matching the stage of recovery of the victim of trafficking. Specialist non-governmental organizations provide the expertise and operational management with funding from Governments. With this planned approach, the move towards independence and control over the lives of the victims is facilitated.

Children's needs for shelter are different from those of adult victims and separate shelters and programmes must be available for child victims of trafficking. Vulnerable because of their age and without the protection of a family, children tend to need safer and more protected environments for longer periods. The assistance they require must often be provided over a longer period of time than for adults. There is considerable evidence that child victims of trauma may have longer-term and more serious reactions than adults.

For those States which do not provide separate shelters for child victims of trafficking, existing systems of child protection may be able to provide the children with shelter, medical and psychological support and education and training.

In some circumstances, returned victims of trafficking will be so ill that their need for shelter will be a permanent one. This is often the case for victims who are seriously ill with hepatitis or HIV/AIDS. These victims may be rejected by their families or communities and have little chance of finding employment or security. Their emotional needs may be high and opportunities for assistance and self-development may best be met by longer-term or permanent shelter and support.

Models of shelter

Drop-in and counselling centres

Drop-in centres or counselling centres can form a link between specialized services and the police, outreach work or other institutions that come into contact with presumed trafficked persons. These institutions provide initial counselling; assessment of social, medical and psychological needs; specialized services including shelter; and further referral of the presumed trafficked person.

Drop-in centres should create a database on social services in the State that are accessible to trafficked persons. Furthermore, they can collect anonymous data on trafficking cases. In Serbia and Montenegro, for example, a team has been created representing the main anti-trafficking non-governmental organizations and social welfare authorities. This team assesses trafficked persons in a Referring and Counselling Centre (drop-in centre) and then refers them to advanced services, including a shelter.

Confidential shelter

A confidential shelter should create a safe haven for a trafficked person by assuring high security standards while respecting their right to privacy and autonomy. In general, this involves accommodation facilities with a secret address for presumed trafficked persons who may still be in danger from traffickers. The advantage of using decentralized, flexible and secret apartments instead of one central building is the higher level of security. Once such a system is in place, apartments can be rented and cancelled frequently, so that the address remains secret for longer periods of time. Moreover, decentralized apartments help ensure provision of housing suitable for different target groups, such as men, women and children.

Some States—the Netherlands, for example—use the existing infrastructure of shelters for female victims of domestic violence. In this case, clear agreements and a transparent division of tasks must be in place between the counselling centre (drop-in centre) and the shelter.

In general, good management of a confidential shelter requires sound regulations to be in place on such issues as admission procedures, staff regulations, termination of accommodation, handling of complaints of occupants and administrative procedures.

Source: National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons (Warsaw, OSCE, 2004), available at: http://www.osce.org/documents/odihr/2004/05/2903_en.pdf

TOOL 8.8 Rehabilitation, skill training and education

Background

There are a number of complex issues affecting the successful return and reintegration of victims of trafficking after their return to their State of origin. Rehabilitation assistance, skill training and education will often need to be part of a victim's reintegration efforts. This tool presents some examples of the assistance that can be provided to victims in that regard.

Examples of some initiatives

Whether trafficked victims are permitted to remain in the destination State or eventually have to return home, education, training and rehabilitation should be provided to the victims who need it. Where States have a provision for temporary residence permits for victims of trafficking, there may be an opportunity for the victims to benefit prior to their return from education, training or retraining and employment opportunities available in that State. This can significantly help victims prepare for their return and reintegration into their State of origin. In several destination States where temporary visas are available, well-developed rehabilitation programmes are operated.

In circumstances where the victim may be able to remain in the destination State, more extensive rehabilitation is possible, with a focus on new employment and lifestyle. For example, the Turin-based group Servizio Migranti Caritas, financed by the Department of Equal Opportunities of Italy, operates a rehabilitation programme that specializes in assisting victims by making them independent through work. Victims are assisted with Italian lessons and other assistance to provide them with legal employment. Vocational training includes work in the hospitality industry, local manufacturing and mechanical engineering industry, domestic service and care for the elderly.

The potential for this type of assistance to help victims break the cycle of revictimization in which they are caught is significant. For the programmes to be effective, however, it is critical that they are offered in a discreet and sensitive manner, without carrying the stigma attached to a programme that is only offered to victims of trafficking. The employment opportunities must be real, realistic and meaningful. The involvement of major employers such as transnational companies in programmes of internships or apprenticeships can be a major asset.

TOOL 8.9 Restitution and compensation for victims

Background

Victims of human trafficking have a right to receive compensation from the trafficker for the physical or mental harm suffered at the hands of the trafficker or because they did not receive any payment for their labour or services. Receiving compensation is important for victims of trafficking not only because of the financial component but also because it has a symbolic meaning, expressing an official acknowledgement that something illicit has been done to them and constituting a first step to overcoming the trauma inflicted by the abuses they suffered at the hands of traffickers. This tool refers to the provisions of the Organized Crime Convention and the Trafficking in Persons Protocol requiring that some appropriate procedures are established to provide access to restitution or compensation.

Right to compensation

The Trafficking in Persons Protocol requires States parties to ensure that their domestic legal system contains measures to offer victims of trafficking the possibility of obtaining compensation for the damage they suffered. The Protocol further requires States parties to provide trafficked persons with information on relevant court and administrative proceedings. The corresponding provisions of the Organized Crime Convention are found in article 25, paragraph 2, which requires that at least some “appropriate procedures” are established to provide access to compensation or restitution. States parties are not required to guarantee the victims any compensation or restitution.

In most cases, legislation is needed to create the necessary procedures. Generally speaking, three types of procedures can be considered:

- Provisions allowing victims to sue offenders or others under statutory or common-law torts for civil damages
- Provisions allowing criminal courts to award criminal damages, or to impose orders for compensation or restitution against persons convicted of offences
- Provisions establishing dedicated funds or schemes whereby victims can claim compensation from the State for injuries or damages suffered as the result of a criminal offence

The International Convention on the Protection of the Rights of All Migrant Workers and Their Families (General Assembly resolution 45/158, annex) stresses the right of migrant workers to receive compensation even in the case of their expulsion (art. 22, paras. 6 and 9, and art. 68, para. 2). Expulsion shall not prejudice any rights of a migrant worker acquired in accordance with the law of the State of employment, including the right to receive wages and other entitlements due to her or him. Before or after departure, the person concerned shall have a reasonable opportunity to settle any claims for wages and other entitlements due to him or

her and any pending liabilities. Measures to eliminate the employment of undocumented migrant workers shall not impair their rights with respect to the ability to bring civil claims against their employers.

According to articles 8 and 13 of the Declaration of Basic Principles on Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex), compensation should include the return of property or payment for the harm or loss suffered, the reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights. States should encourage the establishment, strengthening and expansion of national funds for compensation to victims of crime.

The legislative framework establishing the mechanisms to raise compensation claims is an important starting point to provide trafficked persons with access to compensation for harms suffered and wages lost. However, the mere existence of such laws is not sufficient. Access to compensation is closely linked to other issues:

- **Information.** Trafficked persons are often prevented from access to compensation because they do not know about their right to receive compensation and the necessary procedural steps to take. Therefore, information provided by law enforcement or private lawyers is an important prerequisite for such access.
- **Confiscation of assets.** Traffickers often hide their money or move it abroad, which prevents trafficked persons from enforcing their compensation claims. In order to overcome this obstacle, States should confiscate any property and money resulting from trafficking and use it to compensate victims. States should also strengthen international law enforcement cooperation to secure access to the traffickers' assets moved abroad.

According to basic principles of tort law, it is primarily the trafficker who is responsible to pay compensation to the victim. Some States also provide for subsidiary state compensation schemes. In some States, compensation from the trafficker may be awarded to victims in the course of the criminal proceedings. Another possibility is to register a claim for compensation in separate civil proceedings.

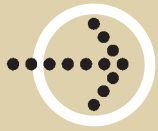
Subsidiary state compensation schemes

Another possibility to provide trafficked persons with compensation is the establishment of subsidiary state compensation funds that allow victims to claim money from the State when that compensation cannot be obtained from the trafficker. In some States, compensation from such a fund is not restricted to particular victims, but is open to all victims of crime who have suffered violations of their physical, sexual or psychological integrity.

In some States, access to compensation schemes may be linked to the claimants' nationality or their residence status. In such destination States, trafficked persons will thus usually have no possibility to claim compensation because of their foreign nationality or their lack of residence.

Compensation schemes may be funded from several sources, including:

- Fines
- Confiscated property of the perpetrators
- Tax revenues
- Other means of state funding
- Donations from private individuals and institutions



chapter 9

PREVENTION OF TRAFFICKING IN PERSONS

Effective action to prevent and combat trafficking in persons requires a comprehensive international approach, including measures to prevent such trafficking, to protect victims of such trafficking and to prosecute traffickers. To effectively prevent human trafficking, the Trafficking in Persons Protocol requires States to endeavour to undertake measures such as social and economic initiatives, research and media campaigns targeting potential victims. Policies, programmes and other measures taken should include cooperation with non-governmental organizations and other relevant organizations. States should take or strengthen measures, including bilateral or multilateral cooperation, to alleviate the factors (such as lack of equal opportunity and poverty) that make people, especially women and children, vulnerable to trafficking.

The Trafficking in Persons Protocol, in conjunction with article 31 of the Organized Crime Convention, requires States parties to adopt what amounts to a comprehensive prevention strategy. Social prevention measures, including addressing the adverse underlying social and economic conditions believed to contribute to the desire to migrate and hence to the vulnerability of victims to traffickers, as well as prevention afforded by education and awareness-raising, are dealt with in article 31

Principles regarding the prevention of trafficking in persons

Recommended principles

Preventing trafficking

4. Strategies aimed at preventing trafficking shall address demand as a root cause of trafficking.
5. States and intergovernmental organizations shall ensure that their interventions address the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination.
6. States shall exercise due diligence in identifying and eradicating public-sector involvement or complicity in trafficking. All public officials suspected of being implicated in trafficking shall be investigated, tried and, if convicted, appropriately punished.

Source: United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking, available at: http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

of the Organized Crime Convention and in article 9 of the Trafficking in Persons Protocol. These are worded so as to encompass both campaigns intended to raise awareness of the problem and to mobilize support for measures against it in the general population, as well as more targeted efforts directed at warning specific groups or even individuals believed to be at high risk of victimization.

In these areas, preventive measures to be taken against trafficking parallel those against organized crime in general, but the Trafficking in Persons Protocol also contains requirements that are specific to trafficking. Recognizing that trafficking could be dealt with from both the demand and supply sides, article 9 includes measures intended to discourage the demand for services that fosters the exploitive element of trafficking and hence its major source of illicit revenue. The Protocol also takes into consideration that former victims are often even more vulnerable later on, especially if repatriated to places where trafficking is common. In addition to the basic requirements to protect victims from intimidation or retaliation by offenders, article 9 also calls for measures to protect victims from being trafficked again and other forms of revictimization.

Finally, the Protocol also seeks to prevent trafficking by requiring measures intended to make it more difficult for traffickers to use conventional means of transport and entry into States by requiring States parties to ensure that border controls are effective and by taking measures to prevent the misuse of passports and other travel or identification documents (see tool 5.11). These provisions, found in Protocol articles 11 to 13, are identical to the corresponding provisions of the Migrants Protocol, which allows States seeking to ratify both Protocols to implement these measures jointly.

The Trafficking in Persons Protocol:

- Requires States to endeavour to undertake measures such as social and economic initiatives, research and media campaigns targeting potential victims. Policies, programmes and other measures taken should include cooperation with non-governmental and other relevant organizations.
- Reaffirms that effective action to prevent and combat trafficking in persons requires a comprehensive international approach, including measures to prevent such trafficking, protect victims of such trafficking and prosecute traffickers.
- Indicates that States should take or strengthen these measures, including through bilateral and multilateral cooperation, to alleviate the factors—lack of equal opportunity and poverty—that make persons, especially women and children, vulnerable to trafficking.

ADDRESSING ROOT CAUSES

Trafficking is a complex phenomenon that is often driven or influenced by social, economic, cultural and other factors. Many of these factors are specific to individual trafficking patterns and to the States in which they occur. There are, however,

Trafficking in Persons Protocol

Article 9 **Prevention of trafficking in persons**

1. States Parties shall establish comprehensive policies, programmes and other measures:
 - (a) To prevent and combat trafficking in persons; and
 - (b) To protect victims of trafficking in persons, especially women and children, from revictimization.
2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
4. States Parties shall 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.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

many factors that tend to be common to trafficking in general or found in a wide range of different regions, patterns or cases. One such factor is that the desire of potential victims to migrate is exploited by offenders to recruit and gain initial control or cooperation, only to be replaced by more coercive measures once the victims have been moved to another State or region of the country, which may not always be the one to which they had intended to migrate.

Some of the common factors involve local conditions that make populations want to migrate in search of better conditions: poverty, oppression, lack of human rights, lack of social or economic opportunity, dangers from conflict or instability and similar conditions. Political instability, militarism, civil unrest, internal armed conflict and natural disasters may result in an increase in trafficking. The destabilization and displacement of populations increase their vulnerability to exploitation and abuse through trafficking and forced labour. War and civil strife may lead to massive displacements of populations, leaving orphans and street children extremely vulnerable to trafficking.

These factors tend to exert pressures on victims that “push” them into migration and hence into the control of traffickers, but other factors that tend to “pull” potential victims can also be significant. Poverty and wealth are relative concepts, which lead to both migration and trafficking patterns in which victims move from conditions of extreme poverty to conditions of less-extreme poverty. In that context, the rapid expansion of broadcast and telecommunication media, including the Internet, across the developing world may have increased the desire to migrate to developed countries and with it, the vulnerability of would-be migrants to traffickers.

In some States, social or cultural practices also contribute to trafficking. For example, the devaluation of women and girls in society and the practice of entrusting poor children to more affluent friends or relatives may create vulnerability. Some parents sell their children, not just for the money, but also in the hope that their children will escape a situation of chronic poverty and move to a place where there will be a better life and more opportunities.

The following tools are based on examples of promising programmes, policies and laws developed in various States.

Most of the prevention strategies fall within one of the following categories:

- Reducing the vulnerability of potential victims through social and economic development
- Discouraging the demand for the services of trafficked persons
- Public education
- Border control
- Preventing the corruption of public officials

MEASURES RELATING TO TRAVEL AND IDENTITY DOCUMENTS

Article 12 of the Trafficking in Persons Protocol requires States parties to implement measures to ensure the adequacy of the “quality” and “integrity and security” of documents such as passports. The language of the articles makes it clear that this includes such measures as technical elements to make documents more difficult to falsify, forge or alter and administrative and security elements to protect the production and issuance process against corruption, theft or other diversion of documents. Indirectly, additional supplementary offences to deal with theft, falsification and other misconduct in relation to travel or identity documents can be created if they do not exist in national law or are not covered in the definition of more general offences.

A number of new and developing technologies offer considerable potential for the creation of new types of documents that uniquely identify individuals, can rapidly and accurately be read by machines and are difficult to falsify because they rely on

Trafficking in Persons Protocol

Article 12 ***Security and control of documents***

Each State Party shall take such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

information stored in a database out of the reach of offenders rather than on the face of the document itself.

Articles 11 to 13 of the Trafficking in Persons Protocol are identical to the corresponding provisions of the Migrants Protocol and where a State is or intends to become a party to both Protocols, joint implementation is recommended, at least in so far as legislative measures are concerned.

TOOL 9.1 Policies to address the root causes of trafficking in persons

Background

The Action Plan to Combat Trafficking in Human Beings adopted by OSCE contains a number of recommended measures to be adopted at the national level in order to prevent trafficking in human beings. It includes measures relating to (a) data collection and research; (b) border measures; (c) economic and social policies aimed at addressing the root causes of trafficking in human beings; (d) awareness-raising measures; and (e) legislative measures. This tool lists the economic and social policies identified in the Action Plan aimed at addressing the root causes of trafficking in human beings.

Recommended action at the national level

In States of origin

- Considering as priority goals the fostering of social, economic and political stability, and the reduction both of migration caused by deep poverty and of supply factors of trafficking. Policies followed in pursuit of these goals should also promote both economic development and social inclusion.
- Improving children's access to educational and vocational opportunities and increasing the level of school attendance, in particular by girls and minority groups.
- Enhancing job opportunities for women by facilitating business opportunities for small and medium-sized enterprises (SMEs). Organizing SME training courses and targeting them in particular at high-risk groups.

In States of destination

- Implementing measures to reduce "the invisibility of exploitation". A multi-agency programme of monitoring, administrative controls and intelligence gathering on the labour markets and, where applicable, on the sex industry, will contribute greatly to this objective.
- Considering the liberalization by Governments of their labour markets with a view to increasing employment opportunities for workers with a wide range of skills levels.
- Addressing the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration.
- Tackling underground economic activities that undermine economies and enhance trafficking.

In both States of origin and States of destination

- Taking measures to raise levels of social protection and to create employment opportunities for all
- Taking appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of gender equality, the right to equal pay for equal work and the right to equality in employment opportunities
- Addressing all forms of discrimination against minorities
- Developing programmes that offer livelihood options and include basic education, literacy, communication and other skills, and reduce barriers to entrepreneurship
- Encouraging gender sensitization and education on equal and respectful relationships between the sexes, thus preventing violence against women
- Ensuring that policies are in place that allow women equal access to and control over economic and financial resources
- Promoting flexible financing and access to credit, including microcredit at low interest
- Promoting good governance and transparency in economic transactions
- Adopting or strengthening legislative, educational, social, cultural or other measures and, where applicable, penal legislation, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, and that leads to trafficking

The full text of the OSCE Action Plan can be found at:
http://www.osce.org/documents/pc/2005/07/15594_en.pdf

TOOL 9.2 Awareness-raising measures

Background

Efforts should be made to raise public awareness of the problem of human trafficking through public information campaigns and other means. In the case of victims, public information campaigns should also address basic human rights standards and make victims aware that trafficking is a crime, that they are being victimized and that they can seek the protection of the law. Campaigns should be formulated in ways that will be understood by victims, using materials in appropriate languages adapted for and relevant to the target audience. This tool examines various methods of prevention through public education, information and awareness campaigns.

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan to Combat Trafficking in Human Beings includes the following measures to be taken at the national level:

- Undertaking, in cooperation with civil society and non-governmental organizations, information campaigns to generate public awareness about trafficking in its various forms, including the methods employed by traffickers and the risks to victims.
- Increasing awareness about trafficking among immigration authorities and consular and diplomatic personnel so that they use this knowledge in their daily contacts with potential victims.
- Encouraging national embassies to disseminate information on relevant national legislation, such as family law, labour law and immigration law, that is of interest to potential migrants, including through non-governmental organizations.
- Increasing awareness of other relevant target groups, including policymakers, law enforcement officers and other relevant professionals such as medical, social services and employment officials, and in the private sector, to trafficking in human beings, to enhance their readiness to address it adequately and to strengthen their institutional capacity to counter it.
- Encouraging the consular and visa sections of diplomatic missions to use printed and other materials in their work with individuals at risk.
- Raising awareness of the media. The perception of the problem of trafficking in human beings brought forward by the media should include a clear explanation of the phenomenon and a realistic portrayal of the victims. To maximize public knowledge and awareness, anti-trafficking campaigns should be conducted with media professionals.
- Targeting awareness-raising campaigns also at the most vulnerable groups, including persons belonging to national minorities, children, migrants and internally displaced persons.

- Extending awareness-raising campaigns to smaller towns and villages whose populations may be at particular risk.
- Working in schools and universities as well as directly with families to reach young people and to raise their awareness about trafficking.
- Addressing, also through the media, the need to reduce the demand for the activities of persons trafficked for sexual exploitation, forced labour, slavery or other practices similar to slavery and, in this connection, promoting zero tolerance towards all forms of trafficking.
- Establishing well-publicized telephone “hotlines” in the States of origin, transit and destination, which should serve three purposes: to act as an independent source of advice and guidance to potential victims who may be considering job opportunities or other offers to go abroad, to act as a first point of contact providing access to a referral mechanism for victims of trafficking in human beings; and to facilitate the anonymous reporting of cases or suspected cases of trafficking in human beings.

Public education, information and awareness campaigns

Persons who migrate are often disadvantaged by a lack of information about the reality of human trafficking, which forces them to turn to third parties for help to migrate and find jobs abroad. These third parties often turn out to be traffickers. The purpose of raising public awareness is to mobilize popular concern about the risk of falling prey to these criminals and about the social and human costs of trafficking in persons.

In general, anti-trafficking campaigns should focus on educating people about the true nature of that crime and its consequences. Within the general population, specific groups can be targeted with more specific messages or by specific means. Awareness-raising campaigns provide potential victims of trafficking with sufficient information about the risks of human trafficking, the possibilities for legal migration to work and earning possibilities to enable them to make informed decisions about migration, to evaluate whether job offers are realistic, and to seek help in the case of trafficking. Awareness-raising campaigns should also address the health risks, such as unwanted pregnancies and sexually transmitted diseases, including HIV/AIDS, associated with sexual exploitation. Some other messages to be conveyed include vigilance and public accountability (taking action when trafficking is detected), information about anti-trafficking programmes and criminal penalties for trafficking.

International and regional standards

General recommendation No. 19 of the Committee on the Elimination of Discrimination against Women urges States to take effective measures to ensure that media respect and promote respect for women and to introduce public information programmes to help eliminate prejudices that hinder women’s equality (see A/47/38, chap. I, general recommendation No. 19, para. 24 *(d)* and *(f)*).

The Council of Europe's Committee of Ministers Recommendation No. R (2000) 11, dealing exclusively with trafficking in women, presents specific recommendations for information campaigns targeting certain groups. Information campaigns with a gender perspective should be directed in particular at female immigration applicants and female refugees.

Information on the risks of trafficking should also be provided to children and young people. School children are an important target group. States can ensure that schools provide children with an education that avoids gender stereotypes and can enhance teachers' training to ensure the incorporation of a gender equality dimension into their teaching.

Examples of promising practices in awareness-raising

United Nations Office on Drugs and Crime Global television campaign on human trafficking

Media campaigns to build an understanding of the issue surrounding trafficking in human beings and to illustrate some of the steps taken to address the problem can be effective tools for community mobilization as well as prevention. The following describes the UNODC global television campaign on human trafficking.

UNODC's global television campaign is designed to build a diverse and widespread understanding of the issues surrounding trafficking in human beings and to illustrate some of the steps being taken to address this growing problem.

The first video focused on trafficking in women for the purposes of sexual exploitation in order to depict one aspect of human trafficking and to project a powerful message about this complex problem. Following the success of that first video spot, UNODC produced a second one, which focused on trafficking in men, women and children for bonded and forced labour (e.g. in factories or fields or as domestic servants). With the cooperation of broadcasters worldwide, UNODC arranged for the transmission of the spots on national networks, as well as on global and regional networks such as CNN International, BBC World and MTV Asia. Millions of people worldwide have viewed the video spots at absolutely no cost to UNODC. The spots have also been distributed among relevant non-governmental organizations to serve as an awareness-creation tool at the local level.

Two new video spots launched later took UNODC's campaign one step further, calling on victims and the general public to take action against trafficking. Non-governmental organizations and Governments are key partners in this effort to combat human trafficking and play an important role in providing support to victims and in raising awareness about the issue at the local level. UNODC is working closely with United Nations entities and local non-governmental organization partners in the distribution of the new public service announcements to add a telephone hotline—where available—at the end of each spot where victims will be able to receive assistance and support.

(continued)

Examples of promising practices in awareness-raising (continued)

While the first and second video spots chiefly targeted potential victims in origin States, the third and fourth spots targeted female victims and the general public in destination States. All four spots also targeted government officials involved in developing and implementing anti-trafficking and victim protection legislation.

To view the video spots, see <http://www.unodc.org/unodc/en/multimedia.html>

“Save our Sisters” information campaign (India)

Publicity and endorsement are two highly effective ways to sell anything, including a problem and its solutions. Save the Children India has harnessed Indian film celebrities as ambassadors in the fight against trafficking in persons.

Based on actual case studies in Nepal, the two hour documentary film *Chameli*, directed by Nepali filmmaker Ravi Baral, was produced to inform local communities about the reality of trafficking in girls and to challenge the Government to confront this issue. According to Baral, the film provides the international community and many village girls and women, who are vulnerable to being sold into prostitution, with insight into the reality of trafficking. The message of the film is clear: prostitution is ugly and trafficking of girls and women should be stopped. The first phase of the movement culminated in a national-level consultation to strengthen bonds and lay the foundation for a more active network spanning India.

Nordic-Baltic Campaign against Trafficking in Women

The Nordic Council of Ministers agreed to coordinate a campaign against human trafficking, with special attention given to discouraging the demand that leads to trafficking. The campaign covered the whole Baltic Sea region. The Nordic Council of Ministers financed the Baltic part of the campaign, while the national Nordic Governments financed their national activities. Three international conferences were held within the framework of the project (in Tallinn, Vilnius and Riga). National awareness programmes and materials were developed in each of the participating States. In the Baltic States, the materials were developed in collaboration with IOM.

In Denmark, the campaign was made up of full page newspaper advertisements. The advertisements also served to introduce the hotline named “Stop Trafficking”. Part of the campaign was also extensive information on the ministerial website, where people could find background documents and facts on national and international efforts to fight trafficking in women. The result of the campaign was extensive media coverage in newspapers, national radio and national television.

For further information, see <http://www.nordicbalticcampaign.org>

TOOL 9.3 Awareness-raising campaign checklist

Background

When planning a public information campaign, several points should be considered. These include the goal, aims and measurable objectives of the campaign; target groups and setting; key messages; materials and actions; monitoring; and evaluation. This tool presents a checklist to help to design a campaign.

CAMPAIGN CHECKLIST

A starting point

- Does it establish the rationale?
- Does it build consensus and engage potential critics?
- Is it based on a simple stakeholder analysis?
- Is there an official launch planned?

An ambitious goal, achievable aims and measurable objectives

- Are the objectives ambitious, clear and with realistic deliverables?
- Do they describe why, where, what, when and how?

A slogan and identity

- Is the slogan short and simple?
- Is there a complimentary strapline?

Defined target groups and settings

- Were all groups identified in the stakeholder analysis?
- Are the settings based on local intelligence and evaluation?
- Were messages and draft materials tested with focus groups?

Key messages

- Are they clear, short and concise?
- Are there core messages and targeted messages?

Key materials

- Is there a range of materials planned?
- Are partnerships to be used in production and distribution?
- Have case studies been organized to provide a human face to the issues?

(continued)

CAMPAIGN CHECKLIST (continued)**Key actions**

- Does the campaign involve active participation?
- Do activities mark specific milestones?

Raising campaign funds and resources

- Does the funding plan articulate the case for the campaign?
- Are partners asked to contribute something specific?

Monitoring and evaluation

- Are monitoring and evaluation planned throughout the lifespan of the campaign?
- Will it include qualitative and quantitative research?
- Will the campaign link to existing statistics?

An end point

- When will the campaign end?
- What plans are there for a report?

Source: Joint United Nations Programme on HIV/AIDS; campaign checklist available at: http://www.sahims.net/doclibrary/11_03/21/regional/UNAIDS%20-%20Developing%20a%20campaign%202003.doc

TOOL 9.4 Corruption prevention**Background**

Corruption is the misuse of public power for private gain. Corruption includes several elements such as bribery, embezzlement, abuse of discretion and favouritism. Specifically, bribery involves the promise, offering or giving of any undue benefit that improperly affects the actions or decisions of a public official. Corrupt officials often play an important role in human trafficking. In the recruitment stage, obtaining of fraudulent invitations or forged documents may be facilitated by corrupt officials. In the transportation stage, in exchange for bribes, officials may turn a blind eye and ignore victims of trafficking, allowing them to cross borders. In the exploitation phase, extortion may be exercised.

No State has been immune to some level of corrupt practices. The international community and the wider public in all societies have been constantly demanding more openness and accountability from the holders of public office. Consequently, many national, regional and international initiatives have focused on various aspects of the problem of corruption in recent years. This tool introduces the United

Nations Convention against Corruption. Furthermore, it refers the reader to the UNODC *Anti-Corruption Toolkit*.

The Organized Crime Convention includes provisions related to corruption within an organized crime context. However, because of the focused nature and scope of the Organized Crime Convention, States agreed that the multi-faceted phenomenon of corruption could be dealt with more appropriately in an independent instrument. Hence, the United Nations Convention against Corruption was adopted by the General Assembly in its resolution 58/4, opened for signature from 9 to 11 December 2003 in Merida, Mexico, and entered into force on 14 December 2005.

United Nations Convention against Corruption

The adoption of the United Nations Convention against Corruption provides the opportunity for a global response to the problem. The level of support it has received indicates both an acute awareness of the severity of the problem, as well as a remarkable political commitment to tackle it.

The Convention requires States parties to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. In some cases, States are legally obliged to establish offences; in other cases, in order to take into account differences in domestic law, they are required to consider doing so. The Convention goes beyond previous instruments of this kind, criminalizing not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence and offences committed in support of corruption, i.e. the concealment and “laundering” of the proceeds of corruption as well as obstruction of justice. The Convention offences also deal with the problematic areas of private-sector corruption. It also contains substantial provisions on strengthening international cooperation in criminal matters, as well as on specific aspects of international law enforcement cooperation, including joint investigations and the use of special investigative techniques, such as controlled delivery, electronic surveillance and undercover operations. Finally, the Convention includes separate chapters on asset recovery and technical assistance and information exchange.

A critical focus of the Convention is prevention—providing the institutional and regulatory framework to reduce the likelihood of corrupt practices in the first instance. Preventing and combating corruption is intrinsically connected with development and achieving sustainable livelihoods. If corruption permeates the fabric of society, including law enforcement, there can be few prospects for development and prosperity. It is for these reasons that assistance in preventing and combating corruption must be seen as part of an overall effort to create the foundations for democracy, development, justice and effective governance.

For more information, visit the UNODC website at:

<http://www.unodc.org/unodc/en/corruption.html#UN>

To consult the ratification status of the Convention, see

http://www.unodc.org/unodc/en/crime_signatures_corruption.html

United Nations Office on Drugs and Crime *Anti-Corruption Toolkit*

The UNODC *Anti-Corruption Toolkit* provides comprehensive information and guides policymakers, practitioners and civil society in the development, implementation and monitoring of anti-corruption initiatives.

It is divided into nine specialized chapters, as follows:

- Assessment of corruption and institutional capabilities against corruption
- Institution building
- Situational prevention
- Social prevention and public empowerment
- Enforcement
- Anti-corruption legislation
- Monitoring and evaluation
- International judicial cooperation
- Asset recovery/repatriation of illegal funds

Most chapters are followed by a number of case studies showing how various anti-corruption measures, as outlined in the Toolkit, are actually being implemented in States around the world.

A key problem faced by those investigating corruption is that, unlike many traditional crimes, such as robbery or murder, corruption does not have a clear victim likely to complain and there is no overt occurrence likely to be reported by witnesses. Indeed, in corruption cases, those with direct knowledge of the offence generally profit in some way, making them unlikely to report it. Corruption is not a “victimless” crime, however; the only victim in many cases is the general public interest. For that reason, any anti-corruption strategy should include elements intended to bring to light the presence of corruption, such as:

- Elements to encourage people who witness or are aware of corrupt incidents to report them
- Incentives to complain about substandard public services that may be due to corruption
- General education about corruption, the harm it causes and basic standards that should be expected in the administration of public affairs
- Elements that generate information and evidence of corruption in other ways, such as audit and inspection requirements
- Strategies to encourage the more “direct” victims of corruption, such as the unsuccessful participants in a corrupt competition for a public contract or employment position, to be aware of the possibility of corruption and to report it when suspected

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United Nations Office on Drugs and Crime Anti-Corruption Toolkit (*continued*)

In encouraging those aware of corruption to report it, the greatest challenge is often their vulnerability to intimidation or retaliation from the offenders, usually because they belong to a vulnerable group or because of the relationship they have with the offenders. Thus, those who deal with officials in circumstances of physical or social isolation, such as new immigrants or residents of rural areas, should be the subject of information campaigns about what standards to expect from officials and be given the means to lodge complaints if the standards are not met. Government agencies can also set up channels that permit corruption to be reported internally.

The *Anti-Corruption Toolkit* can be found at:
http://www.unodc.org/unodc/en/corruption_toolkit.html

TOOL 9.5 Discouraging the demand for trafficked persons for purposes of sexual exploitation

Background

Trafficking can be dealt with from both the demand and supply sides. It is important to prevent trafficking but also to discourage the demand that fosters all forms of exploitation of persons that leads to human trafficking. Destination States should examine the factors that make them attractive for human trafficking and address such matters in a multifaceted way. This tool focuses on discouraging the demand for trafficked persons for purposes of sexual exploitation.

It is known that thousands of tourists and businessmen who travel internationally engage in sex, including with children, or make pornographic pictures. In general, sex tours are arranged informally among friends or colleagues; however, there have been cases of travel agents being prosecuted for supplying and arranging sex tours. In addition, buyers who travel to other countries to have sex with women or children often feel protected by a sense of anonymity and rationalize their behaviour in various ways to mitigate the sense of responsibility they may normally have in their home countries. They often justify their behaviour by claiming that it is culturally acceptable in that country or that they are helping the person by providing some money. Some of those who seek sex with a child mistakenly believe that they are less likely to contract HIV/AIDS. Much of the efforts to combat child prostitution in developing countries concentrate on the abuse committed by foreigners for two reasons: the economic and social power of the exploiter far exceeds that of the child; and the foreign exploiter can easily leave and avoid prosecution.

In response to the latter, many States have resorted to an extraterritorial jurisdiction over offences related to the sexual exploitation of children by their nationals

in other countries. This tool looks at legislative and other measures, such as ethical guidelines and campaigns that can be conducted in order to discourage the demand for trafficked persons by addressing the problem of sexual exploitation.

See <http://www.humantrafficking.org>

United Nations zero tolerance policy for acts of sexual exploitation and abuse committed by personnel employed by or affiliated with the United Nations

The United Nations has developed special measures for protection from sexual exploitation and sexual abuse by all United Nations personnel. These measures include prohibition of sexual exploitation and sexual abuse:

- Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.
- In order to further protect the most vulnerable populations, especially women and children, the following specific standards, which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:
 - (a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;
 - (b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;
 - (c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;
 - (d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;
 - (e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;
 - (f) United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

(continued)

UN zero tolerance policy for acts of sexual exploitation and abuse committed by personnel employed by or affiliated with the United Nations (*continued*)

- The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

Source: United Nations, ST/SGB/2003/3, available at: <http://pbpu.unlb.org/pbpu/library/ST-SGB-2003-13%20on%20Sexual%20Exploitation%20and%20Abuse.pdf>

UNICRI training manual on combating trafficking in human beings to and within peace support operation areas

- A training manual on combating trafficking in human beings to and within peace support operation areas has been developed by UNICRI. The purpose of the manual is to build up knowledge and strategies for awareness and training. The manual is aimed at international police and justice administration personnel deployed, or to be deployed, in peace support operation areas. Its objective is to help staff integrate awareness of trafficking in human beings into all their activities. The increased awareness among the international police and judicial personnel serving with peace support operations can help to counter the activities of organized crime and criminal networks involved in trafficking in human beings in peace support areas.

To obtain a copy of the training manual please contact UNICRI by e-mail at unicri@unicri.at or write to UNICRI Headquarters, Viale Maestri del Lavoro 10, 10127 Turin, Italy.

Ethical Guidelines for Government Employees Prohibiting the Purchase and Acceptance of Sexual Services

On 17 October 2002, the Norwegian Government resolved to introduce ethical guidelines for civil servants to prohibit the purchase and acceptance of sexual services.

The reason for this was the increasing problem posed by international prostitution and the trafficking of women and children for sexual purposes. Demand for sexual services forms part of the basis for such traffic. The ethical guidelines should be seen in the light of the work being carried out in the Ministry of Justice of Norway on the action plan to prevent trafficking in women and children.

By introducing ethical guidelines for civil servants, the Government seeks to serve as a good example. In this way, the authorities and the Government as employers seek to assume responsibility in principle to prevent people from being degraded as victims of human trafficking for sexual purposes.

Source: <http://odin.dep.no/jd/engelsk/publ/veiledninger/012101-990367/dok-bn.html>

(*continued*)

UN zero tolerance policy for acts of sexual exploitation and abuse committed by personnel employed by or affiliated with the United Nations (*continued*)

Campaigns aimed at lessening demand

The End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) campaign is an international movement to raise awareness of these issues. Local campaigns highlighting extraterritorial jurisdiction and warning that engaging in sex with minors is a criminal offence have been successful in many western countries. In Europe, Australia, New Zealand and Asia, ECPAT has succeeded in getting airlines and travel agents to post signs in airports warning people that engaging in sex with minors is illegal and to distribute fliers about the brutal nature of the trade.

Source: http://www.ecpat.net/eng/Ecpat_inter/projects/sex_tourism/sex_tourism.asp

Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism

The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism is a project joining the tourism private sector and the children's rights non-governmental organization ECPAT, aiming to prevent sexual exploitation of children at tourism destinations. The tour operators and their umbrella organizations, travel agents, hotels, airlines etc., that endorse the Code, commit themselves to implementing the following measures:

1. To establish an ethical policy regarding commercial sexual exploitation of children
2. To train the personnel in the country of origin and travel destinations
3. To introduce a clause in contracts with suppliers, stating a common repudiation of commercial sexual exploitation of children
4. To provide information to travellers by means of catalogues, brochures, in-flight films, ticket-slips, home pages etc.
5. To provide information to local "key persons" at the destinations
6. To report annually

Source: <http://www.thecode.org>

Child Sex Tourism Prevention Project

The Child Sex Tourism Prevention Project is a joint effort between World Vision, the United States Department of State and the United States Bureau of Immigration and Customs Enforcement. The project has a three-pronged strategy:

1. A deterrent media campaign for would-be child sex tourists in Cambodia, Costa Rica, Thailand and the United States
2. Law enforcement assistance in order to help identify child sex tourists
3. Prevention programmes through interventions such as education, advocacy and creation of other means to make a living

See http://www.worldvision.org/worldvision/wvusuf0.nsf/stable/globalissues_stp

Legislation

Violent Crime Control and Law Enforcement Act of 1994 (United States)

Under the Crime Bill it is now illegal for Americans to travel abroad with the intent to engage in any sexual act with a minor (under 18). The penalty for doing so can be imprisonment for up to 10 years, a fine, or both. However, intent is hard to prove and to prosecute in this regard.

Sex Offenders Act (United Kingdom)

The United Kingdom Sex Offenders Act was passed in 1997 and makes sexual activity with a child, committed in an overseas country by a United Kingdom citizen or resident, a criminal offence punishable in the United Kingdom. It is also an offence to plan to travel overseas for sex with children.

TOOL 9.6 Eliminating gender-based discrimination and promoting women's economic rights

Background

Women are often discriminated against in terms of determination of wages and access to labour markets and marketable vocational training. This increases their vulnerability to exploitation by human traffickers. In addition, gender stereotypes perpetuate their overrepresentation in lower paid, less secure, traditionally female jobs and determine the distribution of responsibilities for paid and unpaid work.

Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex) obliges States parties to eliminate “any stereotyped concept of the roles of men and women at all levels and in all forms of education, in particular by the revision of textbooks and school programmes and the adaptation of teaching methods”. Article 4 of that Convention specifies that “temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination”.

In the Beijing Platform for Action (A/CONF.177/20/Rev.1, chap. I, resolution 1, annex II), adopted at the Fourth World Conference on Women in 1995, Governments committed themselves to taking a number of measures in order to promote women's economic rights and eliminate discrimination in the workplace, including:

- Promoting and supporting women's self-employment and micro-enterprise

- Ensuring equal access for women to effective job training not limited to traditional employment areas
- Promoting equal sharing of family responsibilities between men and women through legislation and education policies

National gender equality machinery

Many States have set up a national gender machinery. According to general recommendation No. 6 of the Committee on the Elimination of Discrimination against Women (A/44/38, chap. V) and the Beijing Platform for Action, such national gender equality machinery should consist of the following elements:

- A high-level of government/coordinating body
- Adequate resources
- A strong political commitment
- The authority/ability to influence policy
- A well-defined mandate to advise on the impact on women of all government policies, to monitor the situation of women and to formulate new policies and carry out strategies and measures to eliminate gender discrimination

The realization of women's human rights requires the establishment of such high-level coordinating bodies responsible for the supervision of gender-sensitive and effective implementation of national laws and the development and coordination of policies aiming to integrate a gender perspective in national laws, policies and programmes.

Promising practices

Anti-discrimination institutions and laws

- An Equal Opportunities Ombudsperson's Office was established in Lithuania in 1999 to carry out independent investigations of alleged discrimination and sexual harassment cases.
- Austria's Federal Equal Treatment Act prohibits gender-based discrimination related to access to employment and vocational training, determination of wages, promotion and termination in the public administration at the federal level. A claimant is entitled to raise a claim before the Federal Commission on Equal Treatment and must only make a credible statement that she or he was discriminated against. She or he may be entitled to equal treatment or compensation by the Government. The act further requires a 40 per cent female quota for all public administration posts.
- Sweden's Equal Opportunities Act of 1991 requires employers to facilitate for male and female employees the combination of employment and parenthood. In cases of alleged discrimination, the burden of proof lies with the employer.

Programmes to create jobs and training programmes for women

Bulgaria implemented a three-year UNDP-funded project to promote the economic empowerment of women and to create jobs. Setting up a Business Support Centre contributed to creating 160 new jobs, 131 of which were taken by women. The Centre provided free vocational training and retraining programmes on topics that included tourism development, English language and computer skills. Out of the 374 persons trained, 263 were women. A loan guarantee scheme was also established to facilitate women or family owned businesses in accessing commercial credits from banks.

TOOL 9.7 Bilateral and multilateral cooperation to prevent trafficking

Background

The Trafficking in Persons Protocol requires that State parties take measures, including bilateral or multilateral cooperation, to alleviate factors such as poverty and lack of equal opportunity that make persons vulnerable to human trafficking. This type of cooperation is a critical underlying principle of the Trafficking in Persons Protocol and an important concept in the prevention arena.

Destination States should enter into agreements and set up programmes in cooperation with States of origin and/or regional and international organizations to increase opportunities for people, in particular women and girls, from less developed States to migrate legally for work, education and vocational training.

The availability of legal possibilities for persons to immigrate for work and professional improvement is likely to further the prevention of human trafficking by lessening the likelihood that they will rely on smugglers and traffickers who provide false documents, arrange travel and exploit them.

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

The Bali Process is a regional initiative to advance practical cooperation in the Asia-Pacific region. The Process started in 2002, with representatives from 38 States within the Asia-Pacific region attending the first conference, as well as 15 observer States from outside the region. The specific objectives of the Bali Process include tackling the root causes of illegal migration, including by increasing opportunities for legal migration between States.

See <http://www.baliprocess.net>

Examples of promising practices

Italy and Albania

A bilateral agreement between Italy and the IOM office in Tirana was signed to manage labour migration flows from Albania and to facilitate the social and professional integration of migrant workers into Italy. The agreement allowed 5,000 Albanians to work in Italy for one year. The IOM office in Tirana interviews applicants, who undergo professional and linguistic tests. The profiles of would-be migrants are entered in an IOM database that is available to Italian employers for consultation on the Internet. The database also posts job offers in Italy, mainly in six regions where the need for manpower is high. By matching their skills to existing vacancies, the database allows applicants to leave Albania with a labour contract, enabling them to start work upon arrival in Italy. Upon arrival in Italy, IOM Rome provides orientation and vocational training courses to some of the newcomers. However, so far most of the applicants have been men.

Victims of Trafficking and Violence Prevention Act 2000, sect. 106 (a) (United States)

This Act requires the United States Government to establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to prevent and deter trafficking. Such initiatives may include:

- Microcredit lending programmes, skills training and job counselling
- Programmes to promote women's participation in economic decision-making
- Programmes to keep children, especially girls, in elementary and secondary school and to educate former victims of trafficking
- Development of educational curricula regarding the dangers of trafficking
- Grants to non-governmental organizations to accelerate and advance the political, economic, social and educational roles and capacities of women in their countries

United States Agency for International Development Strategy for response to trafficking in persons

The United States Agency for International Development response to trafficking acknowledges that successful anti-trafficking initiatives are those that are reinforced by programmes that support economic development, good governance, education, health and human rights and that flow from country-based collaborative frameworks that have the committed participation of civil society, Government and law enforcement. Relevant development assistance initiatives are part of the United States strategy to counter trafficking in persons.

See http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/pd-abx-358-final.pdf



chapter 10

MONITORING AND EVALUATION

Policies and programmes to address human trafficking must be effective, cost-effective, reliable and transparent. In the broadest sense, programmes to address trafficking in persons will seek to involve all members of society, including the support of the top leadership of each State. In the narrowest sense, programmes will seek to address the needs of a single, small group, or to investigate and act against specific traffickers.

Whether a programme is large or small, it is important to devise a monitoring and evaluation mechanism to allow planners to determine whether the programme is meeting its goals. Since resources are limited, monitoring and evaluation will help to prioritize activities and optimize their impact.

Some of the criteria that are frequently used to guide the design and delivery of new programmes and policies are:

- Compatibility (to determine if programmes or interventions cause the right response in the target group and also if they cause unwanted responses in other groups)
- Cost effectiveness (to determine how efficiently programme resources are being spent with regard to what will be achieved)
- Sustainability (to design and prepare interventions, policies and programme that will continue after the initial launch)
- Transparency (to have financial and administrative transparency in order to maintain public confidence)
- Consistency (to build policies and programmes that are congruent with each other and inspired by the same overall objectives)

Some of the main prerequisites to successful intervention programmes are well known. They include:

- Strong political will and commitment to policy reform that address the root causes
- Development of clear and effective strategies at the national and local levels
- Public accountability for progress made towards the goal of preventing trafficking in persons (and the implementation of national and local strategies)

- Innovative partnerships with Governments, international organizations, law enforcement agencies and non-governmental organizations
- Public education and awareness campaign to develop broad-based support for the initiative
- A national capacity to analyse, design and implement further interventions in response to changing circumstances

WHY ARE MONITORING AND EVALUATION IMPORTANT?

Monitoring and evaluation are extensions of the analysis that originally identified the appropriate mix of policies and programmes needed to address trafficking. The process measures and demonstrates whether the strategy or programme is working, helps in targeting and retargeting existing interventions and provides useful feedback that can be used in strengthening various interventions. Programme monitoring and evaluation use specific and quantifiable indicators to measure outcomes.

Monitoring the implementation of programmes and policies and evaluating their impact ensures that an overall anti-trafficking initiative evolves in a dynamic manner and is capable of constantly refining its objectives and adapting its methods. Monitoring and evaluation make it possible to:

- Gauge the extent to which an anti-trafficking programme is producing its intended effects
- Refine and improve programme targets, delivery and methods
- Provide feedback for the continuous improvement of current strategies

The tools in this chapter focus on:

- The general process of evaluation
- The need to assess the implementation of programmes
- The need to enhance existing institutional capacity

TOOL 10.1 Monitoring and evaluation process

Background

This tool presents some of the basic principles of programme monitoring and evaluation as they apply to anti-trafficking initiatives. This is followed by a brief presentation of the main steps involved in developing a monitoring and evaluation system.

Monitoring is the constant, or at least the regular, observation of a phenomenon in order to find out how it is evolving for the purpose of studying it, taking specific actions and/or fine-tuning an ongoing strategy. An evaluation is the process of assessing activities after their implementation with a view to determining whether they were successfully carried out and achieved the desired impact.

Both processes need to be included in the management of a programme. The monitoring process provides an early reaction mechanism that allows for the rapid identification and resolution of problems with minimal effort, costs and resources and can prevent these problems from compounding themselves as they are carried forward to the next stages of the programme. The evaluation mechanism represents a good opportunity for the organization to generate feedback on its programme design, implementation and performance. It allows the improvement or realignment of the programme itself, when necessary, and is beneficial to the quality and success of future similar initiatives.

Data elements

In addition to the usual administrative and financial monitoring and evaluation in all projects, organizations with anti-trafficking projects should monitor and evaluate the impact of the project in terms of its contribution to prevent and combat trafficking in persons. In designing an evaluation, some of the questions about the following issues will likely suggest themselves:

- Characteristics of the region and countries involved
- Personal and demographic profile of victims
- Recruitment practices
- Travel routes and travel experiences of victims
- Nature of the exploitation in the destination State
- Nature of the coercion and deception exercised
- Demographics of criminals and involvement of organized criminal groups
- Connivance and corruption of government officials
- The extent to which the proceeds of crime are intercepted
- Reporting practices for victims
- Participation of victims in proceedings

- Access of victims to redress and compensation
- The nature of interaction of victims with government agencies and other organizations
- Characteristics of the legislative framework in place to prevent and combat trafficking in persons
- Nature and effectiveness of the law enforcement and criminal justice responses
- The actual needs of victims for assistance and protection and the extent to which these needs are met by current programmes
- The effectiveness of the mechanisms in place to address the special needs of children
- The effectiveness of the coordination and cooperation between government agencies and non-governmental organizations
- The effectiveness of the mechanisms in place for the return and reintegration of victims
- The effectiveness of the mechanisms in place to facilitate international cooperation

Design considerations

Monitoring and evaluation starts at the design and planning phase of the anti-trafficking programme. The aim of the design is to enhance links between interventions and to develop clear indicators. Baseline measurements are taken, based on relevant indicators, to allow for the future measurement and assessment of the direct and indirect effects of the programme intervention.

Monitoring

Monitoring refers to the ongoing assessment of progress towards the achievement of operational and strategic objectives. This implies ongoing data collection and impact assessment at defined intervals, for instance at midterm and final phases. Steps 1 and 2 in the analytical process outlined below are the main focus of monitoring, combined with some elements of step 3. Monitoring as an ongoing data collection process provides information for progress towards impact, as well as for evaluation to show trends.

The nature of the monitoring process will depend on the data requirements in individual cases, means of verification, the possible or likely sources of data to be used and the methodologies to be utilized. The information management systems relating to different interventions can provide data for monitoring at the operational level. The assessment of operational objectives and impact on trafficking victims is performed by specific monitoring systems. Tracking systems for victims of trafficking in persons can potentially provide detailed information on the target group, in particular on the direct provision of benefits of the programme, and form the basis for further impact assessment. These tracking systems, however, may prove to be

a less cost-effective solution when continued after the intervention. Tracer studies and longitudinal studies are then a more appropriate solution.

Evaluation

Evaluation refers to the assessment of impact and the analysis of attribution at a single point in time. It is where the data collection from the monitoring phase is combined with specific data collected for evaluation and then used for analysis. Evaluation attempts to provide an overall perspective of the strategy and to identify any changes. Evaluation has to achieve a balance between the inside knowledge and understanding of stakeholders and programme management. As the point of reference and benchmarking, it has to be a participatory and joint process.

Evaluation has to assess the performance of the overall anti-trafficking programme as well as the contribution and performance of individual elements. It should satisfy institutional evaluation requirements at many levels. Each anti-trafficking programme needs a clearly agreed upon monitoring and evaluation process that all partners will participate in and that can be used as the basis for assessment and adjustment.

Monitoring and evaluation in anti-trafficking programmes

Monitoring and evaluation of anti-trafficking programmes consists of assessing progress in terms of programme implementation, achieving objectives and creating a sustainable impact on the lives of trafficking victims. This process links operational and management goals to the impact of the programme. The fundamental analytical steps in this process will assess:

- Whether the programme was effectively implemented as designed
- Whether the desired outcomes were realized and whether effects other than those predicted took place
- Whether outcomes can be attributed to programme design and implementation

Assessment of programme implementation

A reference here to a simple three-step process may be helpful in preparing to assess the implementation of a programme.

Step 1: Assess whether the programme was implemented effectively

This relies on making sure that the programme, policy or intervention was actually implemented as designed. There are many possible reasons why a given programme may not have been implemented correctly, or why adjustments were made. However, before the impact of a particular programme or an outcome can be assessed, it is necessary to make sure the programme was implemented as designed, or to at least understand what exactly did take place.

(continued)

Assessment of programme implementation *(continued)*

The measures used to gauge the efficiency of a programme will, of course, depend on the specific intervention planned. For instance, if the goal was to raise awareness, the programme implementation success indicator is the increased awareness compared to measures of awareness before the programme, taking into account the cost and efficiency of implementation.

This specific evaluation concerns cost-efficiency; effectiveness or delivery of outputs and achievement of outcomes; and factors affecting programme performance.

An anti-trafficking programme will often consist of several levels of intervention and will be linked to the implementation and outcome of programmes under the responsibility of other partners and actors. The monitoring and evaluation of an anti-trafficking programme will, therefore, have to include information on the status of other interventions.

Step 2: Assess whether desired outcomes were realized and identification and assessment of impact

This next step focuses on assessing if the programme achieved the desired impact on the target population. Social science research provides a number of ways to carry out impact assessments, each with its own advantages and disadvantages related to cost, methodology and ability to infer impact. However, regardless of the methodology, it is important to measure changes in relevant indicators of trafficking in persons, keeping an eye out for other effects that occurred. The most fundamental challenge is to determine whether specific interventions produced the desired impact, based upon changes in key indicators, as explained below.

(a) Assess the outcomes via anti-trafficking indicators. Here, trends are examined by looking at changes in the key indicators of trafficking in persons. Was trafficking in persons reduced, or, at least was its growth curtailed? The relevant measures here will be derived from indicators that may be measured in surveys before and after interventions, or gathered from official statistics and records. Relevant changes in key indicators will involve changes in rates of trafficking in persons. Note that rates might be more relevant an indicator than numbers.

In assessing impact it is essential to review whether policies and interventions are finely targeted on specific industries or regions. However, in making any assessment on the impact of a programme, it is essential to examine what happened in other industries or regions that were not directly targeted by the intervention. Displacement of the problem may have been an unintended outcome of the programme.

(b) Assess whether effects other than those predicted took place. As mentioned above, an intervention designed to reduce trafficking in persons in a specific industry or region may lead to unintended consequences. Therefore, when data are collected for assessing the impact of a programme, indicators that can account for other possible causes should be included.

(continued)

Assessment of programme implementation (*continued*)

(c) **Assess effects of other interventions linked to the anti-trafficking programme.** An anti-trafficking strategy can be based on existing or complementary interventions for which the programme does not establish indicators, but these interventions do affect the situation on trafficking in persons. Relevant information should be collected on the effects of these complementary interventions.

Step 3: Assess whether outcomes can be attributed to programme design

As mentioned above, the most fundamental challenge is to determine, based upon key indicators, whether specific interventions produced the observed impact on trafficking in persons. For this purpose the system should take into account the problems, causes and effects of trafficking and establish links to programme components both within and outside the programme framework.

This part of the assessment is the most challenging. It uses information from the assessment of programme implementation in step 1 and impact assessment in step 2. In addition, qualitative data are used to determine whether the designed intervention caused this impact. It is typically not possible to establish that a programme caused all of the observed effects. In providing an impact assessment, the most important issue to consider is the fundamental problem of causation. Much work in the empirical social sciences has focused on the problem of inference in evaluation. For instance, if trafficking in persons declined before and after an intervention, there may have been many other factors that shifted and also affected trafficking. Moreover, even if certain indicators of trafficking in persons did not decline at all (or perhaps even increased slightly), it cannot be inferred that a programme failed. There might have been an even more dramatic increase if there had been no intervention at all. Furthermore, without an experimental design, it is not possible to know what would have happened if there had been no programme at all.

If certain regions or employment sectors were targeted and others were not, causality could be indicated by showing that trafficking in persons declined relatively more in a given targeted region or sector than in others. However, the possibility of trafficked persons being displaced into other industries or regions should be examined. A further problem of attribution is that often it is not just one programme or policy that is put into place, but a series of them. Thus, it is difficult to determine which specific component worked most effectively. The fundamental problem of inference is the difficulty of ascertaining whether and how trafficking in persons would have changed in the absence of the intervention. Other trends may have caused changes in trafficking rates. A decrease in trafficking rates may happen even in the absence of the programme.

The primary approach is to examine the outcomes, which should be linked as much as possible to the interventions by focusing on indicators specific to those interventions. For instance, if the programme goals were met, yet the outcome variables did not change as predicted, then it will be necessary to question the assumed link between the cause and effect, or recognize that there may be other constraints.

TOOL 10.2 Guidelines on research and evaluation

Background

The following reproduces the United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking concerning research, analysis, evaluation and dissemination.

Recommended guidelines

Guideline 3

Research, analysis, evaluation and dissemination

Effective and realistic anti-trafficking strategies must be based on accurate and current information, experience and analysis. It is essential that all parties involved in developing and implementing these strategies have and maintain a clear understanding of the issues. The media has an important role to play in increasing public understanding of the trafficking phenomenon by providing accurate information in accordance with professional ethical standards.

States and, where appropriate, intergovernmental and non-governmental organizations, should consider:

1. Adopting and consistently using the internationally agreed definition of trafficking contained in the Palermo Protocol.
2. Standardizing the collection of statistical information on trafficking and related movements (such as migrant smuggling) that may include a trafficking element.
3. Ensuring that data concerning individuals who are trafficked is disaggregated on the basis of age, gender, ethnicity and other relevant characteristics.
4. Undertaking, supporting and bringing together research into trafficking. Such research should be firmly grounded in ethical principles, including an understanding of the need not to re-traumatize trafficked persons. Research methodologies and interpretative techniques should be of the highest quality.
5. Monitoring and evaluating the relationship between the intention of anti-trafficking laws, policies and interventions, and their real impact. In particular, ensuring that distinctions are made between measures which actually reduce trafficking and measures which may have the effect of transferring the problem from one place or group to another.
6. Recognizing the important contribution that survivors of trafficking can, on a strictly voluntary basis, make to developing and implementing anti-trafficking interventions and evaluating their impact.

7. Recognizing the central role that non-governmental organizations can play in improving the law enforcement response to trafficking by providing relevant authorities with information on trafficking incidents and patterns taking into account the need to preserve the privacy of trafficked persons.

The full text is available at: http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

TOOL 10.3 Use of standardized data collection instruments

Background

In the same way that universally accepted and consistently applied trafficking and smuggling definitions will help researchers generate accurate estimates of the frequency of the two phenomena, standardized research instruments and methodologies make it possible to measure, compare and interpret data across jurisdictions and over time, on the prevalence, nature and effect of the traffic in persons.

Trafficking in persons is a transnational phenomenon that can only be overcome if all anti-trafficking players, inside and outside Governments can work together based on sound information about the phenomenon, how it evolves and how it is affected or not by various interventions.

Research instruments

As part of a project on coalitions against trafficking in human beings in the Philippines, UNICRI, in cooperation with UNODC, has designed standard research instruments and a standard research methodology. These could be used, with minor modifications based on situational and cultural variables of the State under study, in all anti-trafficking technical cooperation projects. The research instruments are as follows.

Victim survey

The survey instrument administered to trafficked victims comprised 49 questions and addressed the following topics:

- Personal and demographic profile (gender and age)
- Recruitment practices
- Costs of being smuggled and debts incurred in the process of recruitment and departure
- Routes and experiences during travel

- Exploitation in the destination State
- Involvement of organized criminal groups and networks
- Connivance and corruption of government officials
- Victim reporting practices
- Victim assessment of government measures to fight trafficking

Non-governmental organization survey

The non-governmental organization survey included questions concerning the following issues:

- Organizational and operational profile
- Clients and/or beneficiaries
- Extent of the non-governmental organization's work with as well as assistance to trafficked victims and smuggled persons
- Services most needed by trafficked victims
- Coordination with government agencies as well as with other non-governmental organizations

Criminal justice experts survey

Two variations of this survey were developed: one for the State of origin and one for destination States. It was felt that law enforcement and criminal justice experts in the State of origin might have more insight into recruitment practices, whereas their counterparts in destination States might be able to provide more information on the exploitative practices. Thus, there are minor differences in these two research instruments. However, an attempt was made to have as much overlap as possible between the two questionnaires.

The criminal justice experts survey covered the following topics:

- General data on trafficking cases
- Travel routes and experiences
- Coercion, deception and exploitation
- Other criminal practices
- Criminal earnings
- Involvement of transnational organized criminal groups
- Law enforcement and criminal justice responses
- Connivance and corruption of government officials

Checklist for the Analysis of Case Files

The checklist mirrors the same categories and variables as those contained in the other research instruments. Specifically, it covers the following topics:

- Victims (their experiences with recruitment and exploitation)
- Offenders (demographic variables and their role within the organization)
- Criminal organizations (nature, practice and modus operandi)
- Contacts within the licit and illicit environments
- Routes taken
- Costs and proceeds of criminal activities
- Data on criminal cases

To consult the report entitled “Rapid Assessment: Human Smuggling and Trafficking from the Philippines”, see:

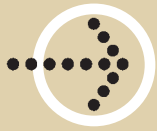
http://www.unodc.org/pdf/crime/trafficking/RA_UNICRI.pdf

For detailed information, please refer to the final report, entitled “Trafficking in Human Beings from the Philippines examining the experiences and perspectives of victims and non-governmental organizations”, and other related reports, available at: http://www.unodc.org/unodc/en/publications/publications_trafficking.html

**ANTI-TRAFFICKING PROGRAMMES
DESIGN, MONITORING AND EVALUATION: LEVELS, METHODS AND CONCERNS**

<i>Level</i>	<i>Design</i>	<i>Monitoring</i>	
	<i>Methods</i>	<i>Concerns</i>	
IMPACT			
Impact on trafficking victims	Situation analysis	Specific impact desired	
Effects and causes	Baseline for intervention area	Causes and consequences to be dealt with	
		Desired effects to be achieved	
POLICY/PROGRAMME (IMPLEMENTATION)			
Targeting	Baseline for intervention area	Trafficking victims, families and communities to be targeted	
Operational targets, objectives, outcomes	Part of baseline for intervention area Specific detailed baseline for component	Specific objectives or purpose of individual components of anti-trafficking programmes	
Process and management (throughputs and outputs)	Process for component design	Targets and outputs for each component	

<i>Evaluation</i>				
	<i>Methods</i>	<i>Concerns</i>	<i>Methods</i>	<i>Concerns</i>
	Repeat data collection as for baseline (impact assessment surveys)	Impact on trafficking victims	Final repeat of data collection as for baseline (impact assessment surveys)	Relevance Sustainability Unintended effects
	Repeat data collection as for baseline (impact assessment surveys)	Observed effects in relation to what outcomes the project was designed to achieve	Final repeat of data collection as for baseline (impact assessment surveys)	Attribution Cause and effect Relevance Sustainability Contextual (external factors)
	Tracking systems	Coverage of trafficking victims, families and communities	Analysis of tracking systems Tracer studies (particularly ex-post)	Relevance (reaching target group)
	Part of repeat data collection as for baseline Tracking system Other monitoring systems	Progress in achievement of specific objectives Link between objectives and components	Evaluation process for individual components as part of overall process Repeat specific detailed data collection as for baseline for component	Relevance (reaching target groups) Effectiveness Factors effecting performance
	Management information systems	Progress in delivery (output and activities)		Efficiency



OVERVIEW OF TOOLS

The tools presented in this Toolkit are grouped under 10 categories: (1) international instruments; (2) problem assessment and strategy development; (3) legislative framework; (4) international criminal justice cooperation; (5) law enforcement and prosecution; (6) victim identification; (7) immigration status of the victims, victim repatriation and resettlement; (8) victim protection and assistance; (9) prevention; and (10) monitoring and evaluation.

1. INTERNATIONAL INSTRUMENTS

TOOL 1.1 Implementing the United Nations Convention against Transnational Organized Crime and its supplementary Protocols

This tool stresses the importance of the United Nations Convention against Transnational Organized Crime and its supplementary Trafficking in Persons Protocol and Migrants Protocol. The tool explains that a State must be a party to the Convention to become a party to the Protocols and elaborates on the relationship between these international cooperation instruments. It also introduces the *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* and directs users to a source of technical assistance.

TOOL 1.2 Other relevant international instruments

Several international legal instruments, in addition to the Organized Crime Convention and the Protocols thereto, form part of the international legal framework relevant to the fight against trafficking in persons. They include humanitarian, human rights and other instruments, instruments against trafficking or slavery in general, and instruments concerning slavery or trafficking related to sexual exploitation. This tool lists those main instruments and provides a reference to the uniform resource locator (URL) at which the instruments can be consulted electronically.

2. PROBLEM ASSESSMENT AND STRATEGY DEVELOPMENT

TOOL 2.1 Assessment of national situation

A systematic process that reviews local circumstances is required in order to assess properly the existing situation in a given State with regard to human trafficking, the nature and extent of the problem, the existing legislative framework and the current response to the problem. This tool provides references to existing examples and instruments.

TOOL 2.2 Assessment of existing legal framework

Legislation and legal procedures and practices vary widely among States. In some States, existing laws on labour, migration, organized crime and prostitution may not have been

harmonized with more recent anti-trafficking laws or treaty obligations. Furthermore legislation may be required to increase victim protection measures or to prevent trafficking. A broad and comprehensive assessment of the national legal framework is usually required with regard to human trafficking. Examples of such assessments are provided.

TOOL 2.3 Regional action plans and strategies

Given the often transnational nature of the problem of human trafficking, it is unlikely that any real success will ever be achieved at the national level without international collaboration. This tool refers to some promising examples of regional action plans and strategies to combat human trafficking.

TOOL 2.4 National and local strategies

Many examples of national strategies and national plans to prevent and suppress trafficking in persons already exist and can be consulted. This tool provides references to several examples of national strategies.

TOOL 2.5 Steps in developing a multi-agency approach to intervention

Multi-agency approaches are required to address the many complex and interrelated issues created by human trafficking. This tool, borrowed from the United Kingdom *Crime Reduction Toolkit on Trafficking of People*, offers a checklist of some of the main steps involved in establishing such a framework.

TOOL 2.6 Inter-agency coordination mechanisms

Inter-agency collaboration is a prerequisite to the success of any national or local strategy to prevent and combat human trafficking. Within these mechanisms, it is also essential to clarify very precisely the role of each of the key agencies involved in implementing the overall strategy. This tool provides examples of such coordination mechanisms in Nigeria, the United Kingdom and the United States.

TOOL 2.7 Capacity-building and training

Capacity-building measures should be built on a prior assessment of the situation, on a clear delineation of the role of various agencies, on an understanding of existing knowledge and expertise and on an analysis of the roles and competencies required for the implementation of a comprehensive strategy. This tool provides references to examples of such training programmes and material.

3. LEGISLATIVE FRAMEWORK

TOOL 3.1 Criminalization of the trafficking offence

Article 5 of the Trafficking in Persons Protocol requires the criminalization of trafficking in persons. The Organized Crime Convention requires the criminalization of the full range of conduct covered by the definition of “trafficking in persons” provided by the Protocol. The tool provides examples drawn from national legislation.

TOOL 3.2 Other offences related to trafficking in persons

Although they are not required to do so under the Trafficking in Persons Protocol, many States have also criminalized many other conducts related to human trafficking. Most States have laws criminalizing abduction, illegal sequestration and kidnapping in general. These acts constitute criminal offences in most States and could be invoked to address certain elements of the full range of crimes.

TOOL 3.3 Liability of legal persons

Trafficking offences and associated serious crimes are often committed through or under the cover of legal entities, such as companies or fake charitable organizations. Complex criminal structures can often hide the true ownership, clients or particular transactions related to trafficking. This tool describes the provisions of article 10 of the Organized Crime Convention, which requires the establishment of the liability of legal persons for participating in serious crimes and in trafficking in persons.

TOOL 3.4 Criminalizing the laundering of the proceeds of trafficking in persons

People involved in trafficking in persons often go to great lengths to disguise the origins of their assets and the fact that the latter may be the proceeds of serious crime. Criminalizing the laundering of the proceeds of crime related to human trafficking is an important part of a comprehensive strategy to combat human trafficking. The Organized Crime Convention and the Trafficking in Persons Protocol require States parties to criminalize the laundering of the proceeds of human trafficking offences.

TOOL 3.5 Human rights and anti-trafficking legislation

The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking provide an important framework guiding the criminalization of trafficking in persons and the development of a legislative framework. This tool presents the relevant sections of that document.

4. INTERNATIONAL COOPERATION

TOOL 4.1 Extradition treaty

Steps must be taken to ensure that the offence of trafficking, its constitutive acts and related offences are extraditable under national law and extradition treaties. Extradition is a formal and, most frequently, a treaty-based process, leading to the return or delivery of fugitives to the jurisdictions in which they are wanted. This tool introduces the reader to the Model Treaty on Extradition.

TOOL 4.2 Seizure of assets and confiscation of proceeds of crime

When criminals are involved in trafficking in human beings, the assets they used to commit the crime, as well as the proceeds gained from the trafficking activities, can often be found in a State other than the one in which the offence is detected or committed. Specific international cooperation mechanisms are necessary to enable States to give effect to freezing and confiscation orders and to provide for the most appropriate use of confiscated proceeds and property. This tool describes the provision of the Organized Crime Convention relating to the confiscation and seizure of proceeds of crime.

TOOL 4.3 Mutual legal assistance

Because human trafficking is an offence that frequently occurs across borders, States must take steps to ensure that they can cooperate and assist each other in the investigation, prosecution and punishment of offenders. The international mobility of offenders and the use of advanced technology, among other factors, make it more necessary than ever to ensure that law enforcement and judicial authorities collaborate with the State that has assumed jurisdiction over the matter.

TOOL 4.4 Mutual assistance requests

Mutual assistance requests often need to be generated at very short notice and in such a way as to avoid legal pitfalls and obstacles to cooperation. This tool introduces a checklist for facilitating the request process.

TOOL 4.5 International law enforcement cooperation

Investigation of human trafficking networks and offences can be quite complex, in particular when they must be conducted, as they often must, across borders. Ensuring effective cooperation among law enforcement agencies in different States must therefore be part of any strategy to address the problem of human trafficking. This tool introduces the reader to article 27 of the Organized Crime Convention, which requires States parties to develop closer law enforcement cooperation among themselves, including exchange of information, cooperation in the identification of offenders, cooperation in tracking the movement of property and offenders, and cooperation in locating victims and witnesses of trafficking.

TOOL 4.6 Bilateral and multilateral cooperation agreements or arrangements

The Organized Crime Convention encourages States parties to consider bilateral or multilateral agreements or arrangements to give effect to their law enforcement assistance obligations. The cooperation initiatives covered by such agreements can be quite encompassing. This tool provides four examples of promising practices.

5. LAW ENFORCEMENT AND PROSECUTION**TOOL 5.1 Reactive, victim-led investigation**

A reactive investigation as a result of a complaint from one or more victims is often necessary, even if it does not always lead to very effective action. In such cases, the need for an immediate intervention to protect the victims, affords little time to implement a proactive investigation to obtain independent evidence. The result is often that the investigators will be left with suspects but no viable evidence upon which to prosecute them.

TOOL 5.2 Proactive investigation

The complexity of the investigation into human trafficking cases tends to dictate long-term, sustained efforts based on solid intelligence and multi-agency collaboration. This tool introduces the reader to an example of a multi-agency, intelligence-led approach that brings together law enforcement, the intelligence community and various government departments.

TOOL 5.3 Disruptive investigation

Where neither the reactive nor the proactive approach is possible, it may be useful for law enforcement to resort to a number of tactics to disrupt human trafficking operations and force them to reveal themselves. This tool looks at some of the main disruptive options available to law enforcement.

TOOL 5.4 Parallel financial investigation

It would be difficult to overstate the critical role of financial investigation in the successful investigation of human trafficking. A solid and well-managed financial investigation is a strong and useful complement to a proactive investigation. A proactive financial investigation can be conducted during both the pre-arrest and the post-arrest investigative phases.

TOOL 5.5 Special investigative techniques

Special investigative techniques can be required during the investigation of human trafficking schemes. They are most useful in dealing with sophisticated, often transnational, criminal organizations. This tool introduces the question of electronic surveillance and undercover operations and alerts the reader to the frequent need to conduct such operations across borders, in cooperation with other law enforcement agencies.

TOOL 5.6 Joint investigation teams

In complex cases of human trafficking, successful investigations usually are the result of the work of joint investigation teams. Article 19 of the Organized Crime Convention encourages States parties to create such teams. This tool describes the main aspects of a joint proactive operation, refers the reader to an example of a joint investigation team and explains the main steps involved in establishing one.

TOOL 5.7 Intelligence gathering and exchange

Intelligence gathering and exchange between relevant authorities of States parties is crucial to the success of measures to attack transnational criminal networks. This tool examines the types of intelligence usually required for the conduct of successful investigations.

TOOL 5.8 Seeking the collaboration of offenders

The investigation and prosecution of traffickers can be greatly assisted by the cooperation of members of criminal organizations involved in these activities. Under certain circumstances, these offenders can be encouraged to collaborate with law enforcement, as informants and witnesses, by granting them immunity from prosecution or by imposing a comparatively lenient punishment. This tool presents the provisions of article 26 of the Organized Crime Convention relating to these important practices.

TOOL 5.9 Guidelines on human rights and human trafficking in the context of law enforcement

The United Nations High Commissioner for Human Rights' Recommended Principles and Guidelines on Human Rights and Human Trafficking provides a number of elements which should be part of the law enforcement component of a national strategy to address trafficking in human beings.

TOOL 5.10 Safety of victims during the investigation

Law enforcement officers have an unequivocal humanitarian and legal duty to treat the victims of trafficking in accordance with their fundamental human rights. This tool summarizes some good practices that can serve as a basis for a law enforcement approach.

TOOL 5.11 Border control measures

A number of measures can be taken at the national level to make it more difficult for traffickers to move people across borders. Many of these measures are included in the Migrants Protocol. This tool reviews the relevant provisions of the Trafficking in Persons Protocol and the Migrants Protocol, as well as the relevant measures recommended in the OSCE Plan of Action. Some examples of promising practices are also introduced.

TOOL 5.12 Witness protection

This tool presents the provisions of the Organized Crime Convention relating to the protection of witnesses (art. 24) and obstruction of justice (art. 23, para. (a)). The protection may include physical protection, domestic or foreign relocation, special arrangements for giving evidence and relocation agreements. Prosecuting offenders or their accomplices under criminal law for intimidating or threatening witnesses is another means of protecting witnesses from such acts.

TOOL 5.13 Witness protection during and after the prosecution and trial

After a successful investigation, witnesses become particularly vulnerable to corruption, threats and intimidation during the prosecution and the trial. A number of measures must be taken at this stage to ensure that the case is successfully prosecuted and the trial process is not compromised. Some measures, such as video testimonies or the exclusion of the general public from a hearing, aim to protect the witness's identity, privacy and dignity. Other measures, for example witness concealment or allowing witnesses to remain anonymous, aim at protecting their physical security.

6. VICTIM IDENTIFICATION**TOOL 6.1 Non-criminalization of victims of trafficking**

Trafficked persons are sometimes treated as criminals rather than as victims, whether in States of destination, transit or origin. In States of destination, they may be prosecuted and detained because of irregular migration or labour status. Alternatively, immigration authorities may simply deport them to the State of origin if their immigration status is irregular. Trafficked persons returning to their State of origin may also be subjected to prosecution for using false documents, having left the State illegally, or for their involvement in the sex trade. This tool discusses the need to avoid the criminalization of victims of trafficking.

TOOL 6.2 Identification of victims of trafficking

Correctly identifying victims of trafficking in persons is essential for their protection and the protection of their rights. The United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking contain a guideline on identifying trafficked persons and traffickers that should be kept in mind while developing a national strategy.

TOOL 6.3 Checklist to facilitate the identification of victims

This tool introduces a checklist, developed by the Philippine Centre on Transnational Crime, that can help officials from various agencies to identify victims of trafficking.

TOOL 6.4 Tips for health-care practitioners

The United States Department of Health and Human Services developed a brief overview of the trafficking problem as well as tips for identifying and assisting victims. This tool reproduces some of that material.

TOOL 6.5 Health-care providers' tool for identifying victims

This tool, developed by the United States Department of Health and Human Services, contains key questions health-care providers should consider asking to determine whether someone is a victim of human trafficking. It gives sample questions health-care providers can ask in screening individuals to determine if they are possibly victims of human trafficking.

TOOL 6.6 Law enforcement tool for identifying victims of trafficking

This tool, developed by the United States Department of Health and Human Services, contains key questions law enforcement officers may ask to determine whether someone is a victim of human trafficking.

TOOL 6.7 Interviewing victims

The victim identification process must respect the rights of victims, their choice and their autonomy. To accomplish this objective, it is suggested that the victims' identification process should be an integral part of the victims' protection mechanisms set in place in the State. This tool, developed by the Organization for Security and Cooperation in Europe, presents some elements to guide the work of law enforcement officers during their interrogation of persons they suspect of having been trafficked.

TOOL 6.8 Ethical and safe conduct of interviews with victims

Interviewing a person who has been trafficked raises a number of ethical questions and safety concerns. The World Health Organization has developed a set of recommendations intended primarily for use by researchers, members of the media and service providers unfamiliar with the situation of trafficked victims. These recommendations are based on a set of 10 guiding principles for the ethical and safe conduct of interviews with women who have been trafficked.

TOOL 6.9 Victim certification

Victims of trafficking cannot easily establish their status as victims and, as a result, may experience difficulties in accessing services that are available to this group. A State may therefore consider developing a scheme to confirm the "victim status" of individual victims and confirm their eligibility to various services, including a temporary residence permit, health services, lodging and protection. This tool includes a description of the Victim Certification Process managed by the United States Department of Health and Human Services.

7. IMMIGRATION STATUS OF VICTIMS AND THEIR RETURN AND RESETTLEMENT

TOOL 7.1 Reflection period

The reflection period aims at protecting the human rights of trafficked persons; it grants the possibility for the victims of trafficking to recover from their experiences and make an informed decision about whether to assist and cooperate in criminal proceedings. This tool offers the example of the European Union Council Directive on the residence permit, including the reflection period.

TOOL 7.2 Temporary or permanent residence permits for victims

This tool introduces article 7 of the Trafficking in Persons Protocol (Status of victims of trafficking in persons in receiving States) on the adoption of measures that can permit victims of trafficking to remain, in appropriate cases, in a State temporarily or permanently. The tool offers the examples of States that have adopted such measures as well as the example of the European Union Council Directive concerning residence permits for trafficked persons.

TOOL 7.3 Repatriation of victims: obligations of States

This tool introduces the provisions of article 8 of the Trafficking in Persons Protocol (Repatriation of victims of trafficking in persons).

TOOL 7.4 Repatriation of victims: return procedures

This tool provides examples of the administrative process and of some bilateral international agreements to facilitate the repatriation of victims.

TOOL 7.5 Facilitating the repatriation of victims

Whether they go back voluntarily or not, trafficked persons usually need support when they return to their family, community or State. Return and reintegration is often a difficult process in which the victims of trafficking face psychological, family-related, health, legal and financial problems. It is often difficult for them to reintegrate into their families and communities. Assistance can be provided to facilitate that process.

TOOL 7.6 Protecting returnee and refugee victims of trafficking

Refugees, internally displaced individuals and repatriated refugees are vulnerable to various forms of abuse and exploitation. Among them, women and children are particularly vulnerable. This tool refers users to the *Sexual and Gender-Based Violence against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response*, published by the United Nations High Commissioner for Refugees.

TOOL 7.7 Repatriation of children

The OSCE Action Plan to Combat Trafficking in Human Beings recommends that a decision to repatriate a child victim of trafficking “should only be made after having taken account all of the circumstances of the specific case and if there is a family or special institution in the country of origin to ensure the child safety, protection, rehabilitation and rein-

tegration”. The tool also provides a reference to the United Nations High Commissioner for Refugees publication *Refugee Children: Guidelines for Protection and Care*.

8. VICTIM PROTECTION AND ASSISTANCE

TOOL 8.1 Access to information and legal representation

States need to encourage the participation of victims of trafficking in the criminal proceedings against the trafficker. They are an important source of evidence for the successful prosecution of a trafficking case. This tool explains the importance of providing victims of trafficking with access to information and, when required, legal representation to facilitate their participation in proceedings.

TOOL 8.2 Assistance to victims

The Trafficking in Persons Protocol requires States parties of origin and of destination to consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking. Governments should, in cooperation with non-governmental organizations, provide the following types of support: (a) medical; (b) psychological; (c) language and translation; (d) rehabilitation, skill training and education; and (e) shelter. This tool describes the assistance services in general terms and gives examples of promising practices.

TOOL 8.3 Assistance to child victims

Under national law, child victims of trafficking may fall under the protection of various child protection laws and regimes. Local child protection authorities may have a mandated obligation to protect and assist these children whether or not they legally are citizens of the State. The role of local, governmental and non-governmental child protection and welfare must be clarified to ensure that these agencies are properly mobilized to play their part fully in a national strategy to combat trafficking in persons. This tool provides information on the nature of the measures that can be taken to meet the special needs of child victims and ensure their protection.

TOOL 8.4 Medical assistance

Health risks and consequences of trafficking for victims should be addressed at all stages of intervention. Prevention of and assistance for HIV/AIDS and sexually transmitted diseases are an integral part of assistance programmes. This tool examines the kind of medical assistance victims usually require.

TOOL 8.5 Psychological assistance

This tool examines the common psychological reaction of victims to the experience of trafficking and outlines the type of psychological assistance that these victims typically require.

TOOL 8.6 Language and translation assistance

Language and cultural considerations can create some practical issues in delivering services and providing information to victims of trafficking. Since the majority of victims of trafficking are likely to seek assistance in the destination State, where the dominant culture and language are not their own, these issues are significant ones for the provision of support and assistance.

TOOL 8.7 Shelter programmes

It is critical to ensure that real and feasible options for the safety and security (both in the short and long term, and in both the State of destination and that of return) are available for victims of trafficking. This tool reviews some of the basic considerations that must be kept in mind to provide safe shelters for victims.

TOOL 8.8 Rehabilitation, skill training and education

There are a number of complex issues affecting the successful return and reintegration of victims of trafficking after their return to their State of origin. Rehabilitation assistance, skill training and education must usually be part of a victim's reintegration efforts. This tool presents some examples of the assistance that can be provided to victims in that regard.

TOOL 8.9 Restitution and compensation for victims

Victims of human trafficking have a right to receive compensation from the trafficker for the physical or mental harm they suffered or for the unpaid labour or services they were forced to perform. This tool refers to the provisions of the Organized Crime Convention and the Trafficking in Persons Protocol that call for appropriate procedures to be established to provide access to restitution or compensation. The tool also provides examples of the kind of measures that can be set in place to facilitate restitution and victim compensation.

9. PREVENTION OF TRAFFICKING IN PERSONS**TOOL 9.1 Policies to address the root causes of trafficking in persons**

The Action Plan to Combat Trafficking in Human Beings adopted by OSCE contains a number of recommended measures to be adopted at the national level in order to prevent trafficking in human beings. This tool lists the economic and social policies identified in the Action Plan aimed at addressing the root causes of trafficking in persons.

TOOL 9.2 Awareness-raising measures

This tool examines various methods of prevention through public education, information and awareness campaigns.

TOOL 9.3 Awareness-raising campaign checklist

When planning a public information campaign, several points should be considered. This tool presents a checklist for designing an awareness campaign.

TOOL 9.4 Corruption prevention

Victims of human trafficking face tremendous obstacles, including government inaction and officials' tolerance or participation in trafficking. An example would be when a border patrol officer accepts bribes to ignore illegal immigrants, thereby allowing them to cross national borders. This tool introduces the United Nations Convention against Corruption. Furthermore, it refers to the UNODC *Anti-Corruption Toolkit*.

TOOL 9.5 Discouraging the demand for trafficked persons for purposes of sexual exploitation

It is important that destination States examine the factors that make them attractive for trafficked people and address such matters in a multifaceted way, from immigration, labour laws and sentencing practices to demand issues, including prostitution and sex with minors. This tool looks at legislative and other measures that can be taken in order to discourage the demand for trafficked persons.

TOOL 9.6 Eliminating gender-based discrimination and promoting women's economic rights

Women are discriminated against in terms of wages and access to labour markets and marketable vocational training. This increases their vulnerability to exploitation by human traffickers. This tool offers examples of measures and promising practices to eliminate gender stereotypes and gender-based discrimination in the workplace and to promote women's economic rights.

TOOL 9.7 Bilateral and multilateral cooperation to prevent trafficking

The Trafficking in Persons Protocol requires that States parties take measures, including bilateral or multilateral cooperation, to alleviate factors such as poverty and lack of equal opportunity that make persons vulnerable. This type of cooperation is an important concept in the prevention arena. This tool offers examples of regional cooperation and promising practices to prevent human trafficking.

10. MONITORING AND EVALUATION***TOOL 10.1 Monitoring and evaluation process***

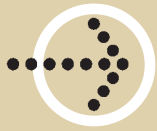
Monitoring is the constant or at least the regular observation of a phenomenon in order to find out how it is evolving for the purpose of studying it, taking specific actions and fine-tuning an ongoing strategy. An evaluation is the process of assessing activities after their implementation with a view to determining whether they were successfully carried out and achieved the desired impact. This tool presents some of the basic principles of programme monitoring and evaluation as they apply to anti-trafficking initiatives. This is followed by a brief presentation of the main steps involved in developing a monitoring and evaluation system.

TOOL 10.2 Guidelines on research and evaluation

This tool introduces the United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking as they relate to research, analysis, evaluation and dissemination.

TOOL 10.3 Use of standardized data collection instruments

In the same way that universally accepted and consistently applied trafficking and smuggling definitions will help researchers generate accurate estimates of the frequency of the two phenomena, standardized methods and research instruments make it possible to measure, compare and interpret data on the prevalence, nature and effect of trafficking in persons across jurisdictions and over time. This tool offers an introduction to some of the instruments available.



USEFUL WEBSITES

Anti-Slavery International: <http://www.antislavery.org>

Asia ACT against Child Trafficking: <http://www.stopchildtrafficking.info/>

Asylum Aid: <http://www.asylumaid.org.uk>

Asylum Support: <http://www.asylumsupport.info>

Child Rights Information Network: <http://www.crin.org/>

Child Trafficking Digital Library: <http://www.childtrafficking.com>

Coalition Against Trafficking in Women: <http://www.catwinternational.org/>

Child and Women Abuse Studies Unit, London Metropolitan University:
<http://www.londonmet.ac.uk/pg-prospectus-2004/research/centres/cwasu.cfm>

End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) International: <http://www.ecpat.net>

ECPAT UK: <http://www.ecpat.org.uk>

European Institute for Crime Prevention and Control, affiliated with the United Nations, Crime Victims: Doing Justice to Their Support and Protection:
<http://www.heuni.fi/uploads/3ggu6heyubd3.pdf>

European Police Office (Europol): <http://www.europol.eu.int/>

Free the Slaves: <http://www.freetheslaves.net/>

Global Alliance Against Traffic in Women: <http://www.gaatw.org>

Human Rights Watch: <http://www.hrw.org/backgrounder/wrd/trafficking.htm>

Human Trafficking: <http://www.humantrafficking.org>

International Bureau for Children's Rights: <http://www.ibcr.org/>

International Centre for Migration Policy Development: <http://www.icmpd.org>

International Centre for Migration Policy Development, Development of an anti-trafficking training module for police:
<http://www.icmpd.org/default.asp?nav=news&folderid=405&id=306&subfolderId=343>

International Centre for Migration Policy Development, training materials for law enforcement officials:
<http://www.icmpd.org/uploading/Comprehensive%20Training%20Strategy.pdf>

International Centre for Migration Policy Development, training materials for judges and prosecutors:
<http://www.icmpd.org/uploading/Short%20note%20Judicial%20training.pdf> and
<http://www.icmpd.org/default.asp?nav=capacity&folderid=-1&id=432>

International Committee of the Red Cross, To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces:
[http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/\\$File/ICRC_002_0698.PDF!Open](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/$File/ICRC_002_0698.PDF!Open)

International Labour Organization: <http://www.ilo.org>

International Organization for Migration: <http://www.iom.int>

International Victimology Website: <http://www.victimology.nl/>

Internet Portal for the Promotion and Protection of the Rights of Migrants:
<http://www.december18.net/web/general/start.php>

International Criminal Police Organization (Interpol):
<http://www.interpol.int/Public/THB/default.asp>

Joint Council for the Welfare of Immigrants: <http://www.jcwi.org.uk>

Ludwig Boltzmann Institute of Human Rights: <http://www.univie.ac.at/bim/>

National Missing Persons Helpline (United Kingdom): <http://www.missingpersons.org>

Organization for Security and Cooperation in Europe (OSCE), Office of Democratic Institutions and Human Rights:
<http://www.osce.org/odihr/?page=democratization&div=antitrafficking>

OSCE National Referral Mechanisms: Joining Efforts to protect the Rights of Trafficked Persons: A Practical Handbook (Warsaw, OSCE, 2004):
http://www.osce.org/documents/odihr/2004/05/2903_en.pdf

OSCE Anti-Trafficking Guidelines, June 2001:
http://www.osce.org/documents/odihr/2001/06/1563_en.pdf

OSCE Permanent Council Decision No. 557/Rev.1, Action Plan to Combat Trafficking in Human Beings, 2005: http://www.osce.org/documents/pc/2005/07/15594_en.pdf

Polaris Project: <http://www.polarisproject.org/polarisproject/>

Protection Project: <http://www.protectionproject.org>

Refugee Action: <http://www.refugee-action.org/>

Refugee Arrivals Project: <http://www.refugee-arrivals.org.uk/>

Refugee Council Online: <http://www.refugeecouncil.org.uk>

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime:
<http://www.baliprocess.net>

End Child Exploitation Campaign (United Kingdom Committee for UNICEF):
<http://www.endchildexploitation.org.uk/>

Nordic-Baltic Campaign against Trafficking in Women:
<http://www.nordicbalticcampaign.org>

World Revolution: <http://www.worldrevolution.org/guide/humantrafficking>

United Kingdom Crown Prosecution Service: <http://www.cps.gov.uk>

United Kingdom Department for Education and Employment, Home Office, Department of Health (2000), Framework for the Assessment of Children in Need and their Families:
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4006576&chk=M3Qrpp

United Kingdom Department of Health (2000), Safeguarding Children Involved in Prostitution (supplementary guidance to Working Together to Safeguard Children):
<http://www.dfes.gov.uk/acpc/safeguardingchildren.shtml>

United Kingdom, Department of Health, Home Office, National Plan for Safeguarding Children from Commercial Sexual Exploitation (2001):
http://www.dfes.gov.uk/acpc/pdfs/nationalplan_updatepaper.pdf

United Kingdom Department of Health, Home Office, Department for Education and Employment (1999), *Working Together to Safeguard Children: a guide to inter-agency working to safeguard and promote the welfare of children* (London, The Stationery Office): http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4007781&chk=BUYMa8

United Kingdom Home Office, *Guidance for Vulnerable or Intimidated Witnesses, including Children*: <http://www.homeoffice.gov.uk/documents/ach-bect-evidence/>

United Kingdom, Immigration and Nationality Directorate of the Home Office: <http://www.ind.homeoffice.gov.uk>

United Kingdom Crime Reduction Toolkits: <http://www.crimereduction.gov.uk/toolkits/index.htm>

Joint United Nations Programme on HIV/AIDS Campaign Guide: http://www.sahims.net/doclibrary/11_03/21/regional/UNAIDS%20-%20Developing%20a%20campaign%202003.doc

United Nations Development Fund for Women (UNIFEM) South Asia Regional Anti-Trafficking Programme: <http://www.unifemantitrafficking.org/>

United Nations Development Programme, *Law Enforcement Manual for Fighting against Trafficking in Human Beings*: <http://www.undp.ro/governance/Best%20Practice%20Manuals/>

United Nations Interregional Crime and Justice Research Institute (UNICRI): <http://www.unicri.it>

United Nations Inter-agency Project on Combating Trafficking in Women and Children in the Sub-Mekong Region, *Training Manual for Combating Trafficking in Women and Children*: http://www.un.or.th/TraffickingProject/Publications/trafficking_manual.pdf

United Nations Economic and Social Commission for Asia and the Pacific: <http://www.unescap.org/esid/GAD/Issues/Trafficking/index.asp>

United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002): http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

United Nations Office on Drugs and Crime (UNODC): *trafficking in human beings*: http://www.unodc.org/odccp/trafficking_human_beings.html

UNODC *Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*: http://www.unodc.org/pdf/crime/publications/standards_policy_makers.pdf

UNODC Handbook on Justice for Victims of Crime and Abuse of Power: http://www.unodc.org/pdf/crime/publications/standards_9857854.pdf

UNODC *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*: http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html

UNODC videos on human trafficking: <http://www.unodc.org/unodc/en/multimedia.html>

UNODC trafficking in human beings awareness-raising campaigns: http://www.unodc.org/unodc/en/trafficking_awareness_raising.html

United States Department of Health and Human Services, *Human Trafficking Campaign Toolkits*: http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/identify_victims.html

United States Department of Justice: http://www.usdoj.gov/trafficking/whatwedo/whatwedo_ctip.html

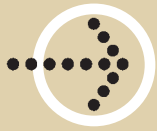
United States Department of State, Office to Monitor and Combat Trafficking in Persons:
<http://www.state.gov/g/tip/>

United States Agency for International Development, Strategy for response to trafficking in persons:
http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/pd-abx-358-final.pdf

Using Video and Technology to Fight for Human Rights: <http://www.witness.org/>

Victim Support: <http://www.victimsupport.org>

World Health Organization, WHO Ethical and Safety Recommendations for Interviewing Trafficked Women (2003):
<http://www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf>



FEEDBACK FORM

Dear readers,

This Toolkit aims to increase awareness and understanding on the problem of trafficking in persons. It is intended to be a practical “how to” resource for all those involved in developing effective measures to prevent human trafficking.

Your experience in using this Toolkit is a very important source of feedback for refining it in the future. Please return the feedback form overleaf to the Anti-Human-Trafficking Unit/UNODC.

Thank you very much in advance for your cooperation.

Please mail to:

Anti-Human-Trafficking Unit, UNODC
Vienna International Centre
P.O. Box 500
1400 Vienna, Austria

E-mail: AHTU@unodc.org

How would you rate the usefulness of the Toolkit in the following areas:					
	Very good	Good	Moderate	Poor	Very poor
Chapter 1 International legal framework					
Chapter 2 Problem assessment and strategy development					
Chapter 3 Legislative framework					
Chapter 4 International criminal justice cooperation					
Chapter 5 Law enforcement and prosecution					
Chapter 6 Victim identification					
Chapter 7 Immigration status of victims and their repatriation and resettlement					
Chapter 8 Victim protection and assistance					
Chapter 9 Prevention of trafficking in persons					
Chapter 10 Monitoring and evaluation					
Quality of the examples					
Quantity of the examples					
Clarity of the language					
Design and layout					
Overall usefulness of the Toolkit					

- Do you intend to use the Toolkit in your current work?
How (e.g. policymaking, training, awareness-raising, as a desk reference etc.)?

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Other—please explain:	<input type="checkbox"/>

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- Please add any other comments that you would like to share with us:

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The Anti-Human-Trafficking Unit of UNODC wishes to thank you for your contribution to the development of the Toolkit!

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