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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
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Toolkit to Combat Trafficking in Persons

Global Programme against Trafficking in Human Beings

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abbreviations

AFESIP	Acting for Women in Distressing Situations (Cambodia)
ASBRAD	Brazilian Association for the Defence of Women, Children and Youth
ASEAN	Association of Southeast Asian Nations
CECRIA	Reference Centre for Studies and Actions in Favour of Children and Adolescents (Brazil)
COAT	Operational Anti-Trafficking in Persons Centre (Colombia)
COMENSHA	Coordination Centre Human Trafficking
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
DPEA	Direction de la protection de l'enfant et de l'adolescent (Burkina Faso)
EAPCCO	Eastern Africa Police Chiefs Cooperation Organization
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
Europol	European Police Office
GAATW	Global Alliance against Traffic in Women
GTZ	German Agency for Technical Cooperation
IAP	International Association of Prosecutors
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
INTERPOL	International Criminal Police Organization
IOM	International Organization for Migration
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights (Organization for Security and Cooperation in Europe)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PEACE	Protecting Environment and Children Everywhere (Sri Lanka)
PICP	Pacific Islands Chiefs of Police
PKPA	Centre for Study and Child Protection (Indonesia)
SAARC	South Asian Association for Regional Cooperation
SARPCCO	Southern African Regional Police Chiefs Cooperation Organization
Sida	Swedish International Development Cooperation Agency
StAR	Stolen Asset Recovery initiative
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund

UN.GIFT	Global Initiative to Fight Human Trafficking
UNHCR	Office of the United Nations High Commissioner for Refugees
UNIAP	United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNIFEM	United Nations Development Fund for Women
UNMIK	United Nations Interim Administrative Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WHO	World Health Organization

introduction

At the third session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its Protocols (Vienna, 9-18 October 2006), various requests were made of the United Nations Office on Drugs and Crime (UNODC) as the secretariat of the Conference of the Parties. Among them was to develop guidelines and collect and disseminate of successful practice with respect to:

- Victim identification
- Investigation of offences
- Victim assistance and repatriation
- Training and capacity-building
- Awareness-raising strategies and campaigns

While this Toolkit is not offered in direct fulfilment of those requests, it has been drafted with the Office's strong commitment to comply with them in mind. The present edition updates and expands the version of the Toolkit published in 2006 (United Nations publication, Sales No. E.06.V.11).

As the international cooperation which is crucial to successfully prevent trafficking, prosecute the culprits and protect and assist its victims gains global momentum, UNODC is honoured to present examples of promising practice from around the world relating to trafficking interventions. The promising practice and recommended resources included in this Toolkit by no means comprise an exhaustive collection of successful, creative and innovative responses to trafficking. Nor are they necessarily in absolute accordance with the anti-trafficking policies of UNODC. However, in the light of the urgent need for cooperative and collaborative action against trafficking, examples have been included with the intention both of commending such initiatives and of demonstrating the range of resources available to assist users in undertaking the anti-trafficking efforts which may feature in the next edition of this Toolkit.

The fact that trafficking in persons occurs today is a horrifying reality. The fact that there is more we could be doing collectively to combat it should be a global call to arms. It is hoped that the guidance offered, the practice showcased and the resources recommended in this Toolkit may inspire and assist policymakers, law enforcers, judges, prosecutors, victim service providers and members of civil society in playing their role in the global effort against trafficking in persons.

Aims and purpose of the Toolkit

The overarching goals of this Toolkit are those of 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 be referred to hereinafter as the "Trafficking in Persons Protocol". These goals are:

[1]The Trafficking in Persons Protocol was adopted by the General Assembvly in its resolution 55/25 of 15 November 2000 (annex II). It entered into force on 25 December 2003. The ratification status of the Protocol can be consulted at: www.unodc.org/en/treaties/CTOC/signatures.html.

- To prevent and combat trafficking
- To protect and assist its victims
- To promote international cooperation

In pursuit of these goals, the Toolkit seeks to facilitate the sharing of knowledge and information among policymakers, law enforcers, judges, prosecutors, victim service providers and members of civil society who are working at different levels towards these same objectives.

Specifically, the Toolkit is intended to provide guidance, showcase promising practice and recommend resources in the thematic areas addressed by chapters on:

I. International legal framework
II. Problem assessment and strategy development
III. Legislative framework
IV. International criminal justice cooperation
V. Law enforcement and prosecution
VI. Victim identification
VII. Immigration status of victims and their return and reintegration
VIII. Victim assistance
IX. Prevention of trafficking in persons
X. Monitoring and evaluation

How to use the Toolkit

Ultimately, this Toolkit is intended to be used in any way it will assist your work against trafficking.

The Toolkit has been structured to serve a twofold purpose:

- In its entirety, the Toolkit provides an overview of the immense and multifaceted task of combating trafficking in persons;
- In its stand-alone chapters, the Toolkit provides guidance on specific aspects of the trafficking response.

Each chapter has been structured so that it can be consulted independently of the others; users who have an interest in a particular aspect of trafficking can refer only to the chapters—or the tools—which are of interest to them. Cross references have been provided throughout the Toolkit to direct users to other tools they may find relevant.

Where possible, websites are indicated where users can either consult the complete text of a document referred to, or find further information on a given topic. Users who do not have access to the Internet are encouraged to contact either UNODC or the organization referenced to arrange to receive a hard copy of the relevant resource.

A list of the tools offered in respect of each theme is provided at the beginning of each chapter. Annex 1 contains an overview of the tools provided in the Toolkit. Annex 2 contains the text of the Trafficking in Persons Protocol, with cross references to tools relevant to its various provisions.

Lastly, optimal benefit will be derived from the Toolkit if users contribute to its continual improvement. Therefore, annex 3 contains a feedback form, which we hope you will use to assist us in strengthening the next edition of this Toolkit, in the same spirit of cooperation which has guided the process of designing and compiling this resource.

Anti-Human Trafficking Unit
United Nations Office on Drugs and Crime

chapter 1

INTERNATIONAL LEGAL FRAMEWORK

Because international cooperation is a basic condition for successfully responding to trafficking in persons, bilateral, regional and global agreements are needed, in addition to domestic efforts, to strengthen law enforcement and judicial responses to transnational crime.

The Trafficking in Persons Protocol represents an effort to harmonize global understanding of the concept of trafficking in persons. Tool 1.1 discusses the definition used in the Protocol and its complexities, Tool 1.2 clarifies the distinctions between trafficking in persons and smuggling of migrants, and Tool 1.3 explores the complicated issue of consent in potential and actual situations of trafficking in persons.

The international instruments which have emerged in response to transnational organized crime are introduced in Tool 1.4. Tool 1.5 explains how States can commit themselves to implementing the United Nations Convention against Transnational Organized Crime,[2] hereinafter referred to as the "Organized Crime Convention" and the Protocols thereto, and recommends resources to strengthen understanding of the obligations they take on in doing so. A selection of other international instruments relevant to combating the crime of trafficking is presented in Tool 1.7.

TRAFFICKING-RELATED DEFINITIONS

Tool 1.1 Definition of trafficking

Tool 1.2 Distinguishing between trafficking in persons and smuggling of migrants

Tool 1.3 The issue of consent

INSTRUMENTS AGAINST TRANSNATIONAL ORGANIZED CRIME

Tool 1.4 Introduction to international instruments against transnational organized crime

Tool 1.5 Implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Tool 1.6 Ratification of the Trafficking in Persons Protocol

Tool 1.7 Other relevant international instruments

Tool 1.8 Regional instruments

[2]The Organized Crime Convention was adopted by the General Assembly in its resolution 55/25 of 15 November 2000 (annex I) and entered into force on 29 September 2003. The ratification status of the Convention can be consulted at: www.unodc.org/unodc/en/treaties/CTOC/signatures.html.

TRAFFICKING-RELATED DEFINITIONS

Tool 1.1 Definition of trafficking

Overview

This tool provides an overview of the elements that the definition of trafficking in persons comprises.

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of a 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.

Article 3 *(a)* of the Trafficking in Persons Protocol

Elements of trafficking

On the basis of the definition given in the Trafficking in Persons Protocol, it is evident that trafficking in persons has three constituent elements:

- *The act* (what is done)

  Recruitment, transportation, transfer, harbouring or receipt of persons

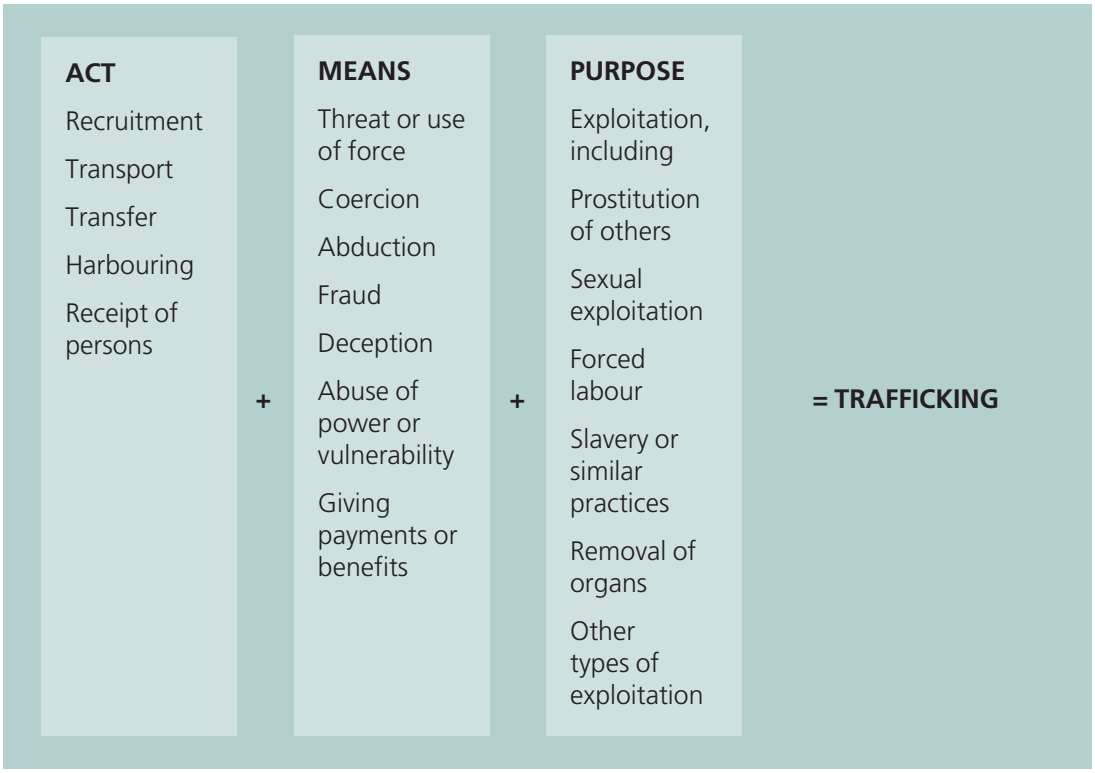
- *The means* (how it is done)

  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

- *The purpose* (why it is done)

  For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

To ascertain whether a particular circumstance constitutes trafficking in persons, consider the definition of trafficking in the Trafficking in Persons Protocol and the constituent elements of the offence, as defined by the relevant domestic legislation.



Criminalization of trafficking

The definition contained in article 3 is meant to provide consistency and consensus around the world on the phenomenon of trafficking in persons. Article 5 therefore requires that the conduct set out in article 3 be criminalized in domestic legislation. Domestic legislation need not follow the language of the Trafficking in Persons Protocol precisely, but should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol. For more on the criminalization of trafficking, see Tool 3.2.

Tool 1.2 Distinguishing between trafficking in persons and smuggling of migrants

Overview

This tool discusses the differences between trafficking in persons and smuggling of migrants.

"Smuggling of migrants" shall mean 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.

Article 3 *(a)* of the Migrants Protocol

Elements of migrant smuggling

Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime[3] hereinafter referred to as the "Migrants Protocol" establishes that the offence is comprised of the following elements:

- Procuring the illegal entry of another person
- Into another State
- For the purpose of financial or material gain

Article 6 requires, among other things, the criminalization of the offence of migrant smuggling.

Key differences between trafficking in persons and migrant smuggling

The consequences of mistakenly treating a trafficking victim as a smuggled migrant can be very severe for the victim. In practice, it may be difficult to distinguish between a situation of trafficking and a situation of smuggling for many reasons:

- Smuggled migrants may become victims of trafficking
- Traffickers may also act as smugglers and use the same routes for both trafficking and smuggling
- Conditions for smuggled persons may be so bad that it is difficult to believe they consented to it

However, there are key differences between trafficking in persons and smuggling of migrants.

Consent

- Smuggled migrants usually consent to being smuggled
- Trafficking victims have not consented or their consent is rendered meaningless by actions of the traffickers

Transnationality

- Smuggling involves illegal border crossing and entry into another country
- Trafficking does not necessarily involve crossing a border and where it does the legality or illegality of the border crossing is irrelevant

Exploitation

- The relationship between the smuggler and the migrant is a commercial transition which usually ends after the border crossing

[3]The Migrants Protocol was adopted by the General Assembly in its resolution 55/25 of 15 November 2000 (annex III). It entered into force on 28 January 2004. The ratification status of the Protocol can be consulted at: www.unodc.org/unodc/en/treaties/CTOC/signatures.html.

- The relationship between traffickers and their victims involves ongoing exploitation of the victims to generate profit for the traffickers

Another indicator is the source of the offender's profit.

- Smugglers generate profit from fees to move people
- Traffickers acquire additional profits through the exploitation of victims

	Trafficking in persons (adults)	*Trafficking in persons (children)*	*Migrant smuggling*
Victim's age	Over 18	Below 18	Irrelevant
Mental element	Intention	Intention	Intention
Material element	Act Means Exploitative purpose	Act Exploitative purpose	Act: procurement of an illegal entry Purpose: for financial or other material benefit
Consent of the trafficked or smuggled person	Irrelevant once the means are established	Irrelevant; means do not need to be established	The smuggled person consents to the smuggling
Transnationality	Not required	Not required	Required
Involvement of an organized criminal group	Not required	Not required	Not required

Tool 1.3 The issue of consent

Overview

This tool discusses the role that the consent of the victim plays in the crime of trafficking in persons.

Article 3 *(b)* of the Trafficking in Persons Protocol states that if a victim's consent to the intended exploitation is obtained through any improper means (threat, force, deception, coercion, giving or receiving of payments or benefits, abuse of power, or position of vulnerability) then the consent is negated and cannot be used to absolve a person from criminal responsibility.

Regardless of whether their consent was obtained without use of any prohibited means, children have special legal status.

A person cannot be considered to have consented to being exploited where consent was obtained through improper means or, in the case of children, where their particularly vulnerable status makes it impossible for them to consent in the first place.

Where consent is rendered irrelevant

A fraudulent job offer

In many trafficking cases the false offer includes the promise of valid work and residency permits. Sometimes the victim will agree to being smuggled into a country illegally in order to find work. The victims clearly do not consent to the subsequent exploitation.

Deceit regarding the conditions of work

The fact that a victim knew in advance that she was going to work in a brothel does not mitigate the criminal liability of the trafficker—the element of exploitation remains. The gravity of the offence is not diminished because the victim was aware of the nature of the work but not aware of the working conditions.

Where exploitation involves children

Where a child and the child's parents give their consent to the use of the child for labour, the child is still a victim of trafficking—even where they gave their consent without being threatened, forced, coerced, abducted or deceived. Where an act of trafficking and the purpose of trafficking are established, the fact that none of the improper means were utilized does not mitigate the crime where children are involved.

Consent issues in practice

Consent of the victim can be a defence in domestic law, but as soon as any of the improper means of trafficking 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 the defence counsel would tender evidence of the victim's consent, leaving the court to assess the validity of the evidence of both the prosecution evidence and the defence.

Trafficking occurs if consent is nullified or vitiated by the application of any improper means by the trafficker. In other words, consent of the victim at one stage of the process cannot be taken as consent at all stages of the process—and without consent at every stage of the process, trafficking has taken place.

Another legal question which will arise is whether under domestic law the subject had the capacity to consent to the recruitment or subsequent treatment. Article 3 (c) of the Trafficking in Persons Protocol makes the consent of a child irrelevant and the capacity to consent may be further restricted under the domestic law of a particular State.

INSTRUMENTS AGAINST TRANSNATIONAL ORGANIZED CRIME

Tool 1.4 Introduction to international instruments against transnational organized crime

Overview

This tool discusses the need for international instruments to facilitate international cooperation, introduces the Organized Crime Convention and its Protocols, and recommends resources which can facilitate international understanding of the crime of trafficking.

International cooperation is a basic condition for the success of any response to trafficking in persons. Various forms of trafficking, including trafficking in persons, take place across borders and cannot be addressed without joint international efforts and international co-operation. States must therefore 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 must be addressed through international cooperation. As criminal groups operate across borders, judicial systems must do the same.

Several United Nations conventions and regional instruments form the international legal framework within which States must define their own laws in order to address the problem of human trafficking effectively. 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 instruments are:

- The Organized Crime Convention
- The Trafficking in Persons Protocol
- The Migrants Protocol

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, the Trafficking in Persons Protocol and the Migrants Protocol.

The Organized Crime Convention and its Protocols

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 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 Convention itself.

The Organized Crime Convention and the Trafficking in Persons Protocol establish minimum standards. States parties are bound to adhere to these minimum standards, but may adopt stricter measures.

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 migrants, drugs, weapons or other illicit commodities, and engaging in corruption or money-laundering. The Convention facilitates the investigation and prosecution of all these criminal activities in a comprehensive manner, across borders. 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.

The Organized Crime Convention is the international community's response to the need for a truly global approach. Its purpose is to promote cooperation to prevent and to combat transnational organized crime more effectively (art. 1). It seeks to increase the number of States that take effective measures against transnational organized crime and to build 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 specific types of organized criminal activity requiring specialized provisions.

The Trafficking in Persons Protocol has three basic purposes (art. 2):

- To prevent and combat trafficking
- To protect and assist victims of trafficking
- To promote cooperation between States parties in order to meet those objectives

The Migrants Smuggling Protocol 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).

The text of the Convention and the Protocols thereto can be found at:
www.unodc.org/unodc/en/treaties/CTOC/index.html

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

Recommended resources

Other relevant conventions

- Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989
  United Nations, *Treaty Series*, vol. 1577, No. 27531
  www2.ohchr.org/english/law/crc.htm
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted by the General Assembly in its resolution 54/263 (annex II) of 25 May 2000
  United Nations, *Treaty Series*, vol. 2171, No. 27531
  www2.ohchr.org/english/law/crc-sale.htm
- Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29), of the International Labour Organization Convention
  United Nations, *Treaty Series*, vol. 39, No. 612
  www.ilo.org/ilolex/cgi-lex/convde.pl?C029
- Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution 34/180 of 18 December 1979 (article 6 refers to traffic in women and exploitation of prostitution of women)
  United Nations, *Treaty Series*, vol. 1249, No. 20378
  www.unhchr.ch/html/menu3/b/e1cedaw.htm

For information on further international conventions relevant to trafficking in persons, see Tool 1.7.

Principles and guidelines

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

- Recommended Principles and Guidelines on Human Rights and Human Trafficking; report of the United Nations High Commissioner for Human Rights to the Economic and Social Council (2002) (E/2002/68/Add.1)

These principles and guidelines are available at:
www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument

United Nations General Assembly resolutions

- Resolution 57/176 of 18 December 2002, entitled "Trafficking in women and girls"
- Resolution 58/137 of 22 December 2003, entitled "Strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking"
- Resolution 59/156 of 20 December 2004, entitled "Preventing, combating and punishing trafficking in human organs"
- Resolution 59/166 of 20 December 2004, entitled "Trafficking in women and girls"
- Resolution 61/144 of 19 December 2006, entitled "Trafficking in women and girls"
- Resolution 61/180 of 20 December 2006, entitled "Improving the coordination efforts against trafficking in persons"

All General Assembly resolutions are available at:
www.un.org/documents

Tool 1.5 Implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Overview

This tool explains how a State becomes a party to the Organized Crime Convention and its Protocols and elaborates on the relationship between these instruments of international cooperation. It also recommends sources of further information on implementation of the Convention and its Protocols.

Most forms of trafficking, including trafficking in persons, are generally carried out 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 Migrant Smuggling Protocol.

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 from UNODC. This tool introduces the *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (United Nations publication, Sales No. E.05.V.2) 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 any protocol 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 the 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 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 provisions of the Convention 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 III, on criminalization, of the legislative guide for the implementation of the Convention, obligations under articles 6 (criminalization of the laundering of proceeds of crime), 10 (liability of legal persons), 11 (prosecution, adjudication and sanctions), 12 to 14 (confiscation), 15 (jurisdiction), 16 (extradition), 18 (mutual legal assistance), 20 (special investigative techniques), 23 (criminalization of obstruction of justice), 24 to 26 (witness and victim protection, and enhancement of cooperation with law enforcement authorities), 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 domestic legislation to implement the Protocol.
- *The Protocol requirements are a minimum standard.* Domestic measures may be broader in scope or more severe than those required by the Protocol, providing that all the obligations specified in the Protocol have been fulfilled.

Recommended resources

Legislative guides of the United Nations Office on Drugs and Crime

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 (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 drafters of legislation, not every provision of the Convention and its Protocols 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 or one of its Protocols becomes 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; they also provide a range of options and examples that national drafters may wish to consider as they develop legislation 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, at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

The text of the Organized Crime Convention and the Protocols thereto, and other relevant information can also be obtained on the UNODC website, at:
www.unodc.org/unodc/en/treaties/CTOC/index.html

Annotated Guide to the Complete United Nations Trafficking in Persons Protocol

The annotated guide is a Global Rights publication which advocates for the Trafficking in Persons Protocol to be reflected in national legislation and policy in a way that meets international human rights standards.

The annotated guide is available at:
www.globalrights.org/site/DocServer/Annotated%20Protocol.pdf

Combating Human Trafficking in Asia: a Resource Guide to International and Regional Legal Instruments, Political Commitment and Recommended Practices

A resource of the Economic and Social Commission for Asia and the Pacific, this 2003 United Nations publication sets out the international and regional legal framework (including instruments on slavery, labour, migration and gender) for combating trafficking in persons, obligations and recommendations, an analysis of instruments, obligations and recommendations, as well as case studies and examples of best practice.

The resource guide is available at:
www.no-trafficking.org/content/training_manual/training.htm

Tool 1.6 Ratification of the Trafficking in Persons Protocol

Overview

This tool offers guidance to Governments and civil society on action that can be taken before and after ratification of the Protocol.

The United Nations Children's Fund (UNICEF) Regional Office for South Asia has issued an information kit with a section dedicated to the Trafficking in Persons Protocol that contains advice on what Governments and civil society can do before and after ratification of the Protocol.

Pre-ratification

What Governments can do

- Support consultations with civil society on the policy and programmatic implications of ratifying the Protocol

- Consult other Governments concerning the ratification process
- Initiate the ratification process
- Follow existing domestic laws and regulations to carry out the ratification process

What civil society can do

- Educate key stakeholders on the Protocol
- Develop and disseminate advocacy materials on the Protocol
- Conduct seminars/conferences promoting ratification of the Protocol
- Use the mass media to provide extensive coverage of the Protocol and its significance

Post-ratification

What Governments can do

- Translate the Protocol into national languages
- Disseminate the Protocol widely to all Government agencies concerned
- Amend inconsistent domestic anti-trafficking laws to conform with the Protocol
- Enact new laws to complement the Protocol
- Develop a national plan of action against trafficking consistent with the Protocol
- Develop the necessary programmes to implement the Protocol and the national plan of action
- Establish agreements between Governments to prevent cross-border trafficking
- Implement a monitoring system
- Implement prevention programmes among potential risk groups
- Develop guidelines for effective reintegration programmes
- Create infrastructure and strengthen institutional mechanisms for the implementation of the Protocol
- Promote cooperation among Governments to initiate bilateral or multilateral agreements that facilitate the implementation of the Protocol
- Develop partnerships for the effective implementation of the Protocol with national and international non-governmental organizations working against trafficking
- Monitor the implementation of the Protocol

What civil society can do

- Create grassroots and national-level awareness of trafficking, its causes and consequences and the utility of the Protocol as a tool to address the issue
- Cooperate with Governments to rehabilitate and reintegrate victims of trafficking
- Collect data and conduct research to inform policies and programmes

- Conduct intensive awareness-raising campaigns against trafficking at the local and national levels to mobilize diverse groups
- Launch income-generating programmes in trafficking-prone areas
- Link the Protocol with other human rights instruments in combating trafficking
- Inform the public of the rights created by the Protocol
- Make proposals for amendments to address gaps in the Protocol
- Raise the violation of rights under the Protocol during reporting to relevant international bodies

Source: UNICEF Regional Office for South Asia, "Information kit"
www.unicef.org/rosa/InfoKit.pd

Tool 1.7 Other relevant international instruments

Overview

This tool lists the other main international legal instruments of relevance to anti-trafficking work and the Internet sites at which the instruments can be consulted electronically.

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. Instruments concerning social progress and development are relevant to the prevention of trafficking in their potential to reduce the vulnerability of persons. This tool is not intended as an exhaustive list but as a starting point for further inquiries into relevant instruments.

Human rights instruments

- Universal Declaration of Human Rights, proclaimed by the General Assembly in its resolution 217 A (III) of 10 December 1948
  www.unhchr.ch/udhr/index.htm
- International Covenant on Civil and Political Rights, adopted by the General Assembly in its resolution 2200 A (XXI) of 16 December 1966
  United Nations, *Treaty Series*, vol. 999, No. 14668
  www.unhchr.ch/html/menu3/b/a_ccpr.htm

- International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in its resolution 2200 A (XXI) of 16 December 1966
  United Nations, *Treaty Series*, vol. 993, No. 14531
  www.unhchr.ch/html/menu3/b/a_cescr.htm
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 39/46 of 10 December 1984
  United Nations, *Treaty Series*, vol. 1465, No. 24841
  www2.ohchr.org/english/law/pdf/cat.pdf
- Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950
  Council of Europe, *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
  www2.ohchr.org/english/law/pdf/vienna.pdf

Humanitarian instruments

- Convention relating to the Status of Refugees, of 28 July 1951
  United Nations, *Treaty Series*, vol. 189, No. 2545
  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
  www.unhchr.ch/html/menu3/b/o_p_ref.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
  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
  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
  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
  www.unhchr.ch/html/menu3/b/92.htm
- Protocol Additional to the Geneva Conventions of 12 August 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
  www.unhchr.ch/html/menu3/b/93.htm

- Protocol Additional to the Geneva Conventions of 12 August 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
  www.unhchr.ch/html/menu3/b/94.htm

Instruments concerning migration

- International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, adopted by the General Assembly in its resolution 45/158 of 18 December 1990
  www.unhchr.ch/html/menu3/b/m_mwctoc.htm

- Convention concerning Migration for Employment (Revised), 1949 (Convention No. 97), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 120, No. 1616
  www.ilo.org/ilolex/cgi-lex/convde.pl?C097

- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (Convention No. 143), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 1120, No. 17426
  www.ilo.org/ilolex/cgi-lex/convde.pl?C143

- Convention concerning the Repatriation of Seafarers (Revised), 1987 (Convention No. 166), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 1644, No. 28258
  www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=167&chapter=1&query

- Convention concerning Private Employment Agencies, 1997 (Convention No. 181), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 2115, No. 36794
  www.ilo.org/ilolex/cgi-lex/convde.pl?C181

- Recommendation concerning Cooperation between States relating to the Recruitment, Placing and Conditions of Labour of Migrants for Employment, 1939 (Recommendation No. 62), of the International Labour Organization
  www.ilo.org/ilolex/cgi-lex/convde.pl?R062

- Recommendation concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories, 1955 (Recommendation No. 100), of the International Labour Organization www.ilo.org/ilolex/cgi-lex/convde.pl?R100

- Recommendation concerning Migrant Workers, 1975 (Recommendation No. 151), of the International Labour Organization
  www.ilo.org/ilolex/cgi-lex/convde.pl?R151

- Recommendation concerning the Repatriation of Seafarers, 1987 (Recommendation No. 174), of the International Labour Organization
  www.ilo.org/ilolex/cgi-lex/convde.pl?R174

Labour instruments

- Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 39, No. 612
  www.ilo.org/ilolex/cgi-lex/convde.pl?C029
- Convention concerning the Abolition of Forced Labour, 1957 (Convention No. 105), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 320, No. 4648
  www.ilo.org/ilolex/cgi-lex/convde.pl?C105
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 2133, No. 37245
  www.ilo.org/ilolex/cgi-lex/convde.pl?C182
- Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 1015, No. 14862
  www.ilo.org/ilolex/cgi-lex/convde.pl?C138
- Convention concerning the Protection of Wages, 1949 (Convention No. 95), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 138, No. 1871
  www.ilo.org/ilolex/cgi-lex/convde.pl?C095
- Convention concerning Basic Aims and Standards of Social Policy, 1962 (Convention No. 117), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 494, No. 7237
  www.ilo.org/ilolex/cgi-lex/convde.pl?C117
- Convention concerning Minimum Wage Fixing, with Special Reference to Developing Countries, 1970 (Convention No. 131), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 825, No. 11821
  www.ilo.org/ilolex/cgi-lex/convde.pl?C131
- Recommendation concerning Minimum Wage Fixing, with Special Reference to Developing Countries, 1970 (Recommendation No. 135), of the International Labour Organization
  www.ilo.org/ilolex/cgi-lex/convde.pl?R135

Gender-specific instrument

- Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution 34/180 of 18 December 1979
  United Nations, *Treaty Series*, vol. 1249, No. 20378
  www.unhchr.ch/html/menu3/b/e1cedaw.htm

Child-specific instruments

- Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989
  United Nations, *Treaty Series*, vol. 1577, No. 27531
  www.unicef.org/crc/

- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted and opened for signature, ratification and accession by the General Assembly in its resolution 54/263 of 25 May 2000
  United Nations, *Treaty Series*, vol. 2173, No. 27531
  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, adopted and opened for signature, ratification and accession by the General Assembly in its resolution 54/263 of 25 May 2000
  United Nations, *Treaty Series*, vol. 2171, No. 27531
  www.unhchr.ch/html/menu2/6/crc/treaties/opsc.htm
- Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 1015, No. 14862
  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, 1999 (Convention No. 182), of the International Labour Organization
  United Nations, *Treaty Series*, vol. 2133, No. 37245
  www.ilo.org/ilolex/cgi-lex/convde.pl?C182
- Recommendation concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Recommendation No. 190), of the International Labour Organization
  www.ilo.org/ilolex/cgi-lex/convde.pl?R190

Instruments against slavery

- Slavery Convention, signed at Geneva on 25 September 1926
  United Nations, *Treaty Series*, vol. 212, No. 2861
  www.unhchr.ch/html/menu3/b/f2sc.htm
- Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, done at the Headquarters of the United Nations, New York, on 7 December 1953
  United Nations, *Treaty Series*, vol. 182, No. 2422
  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, done at Geneva on 7 September 1956
  United Nations, *Treaty Series*, vol. 266, No. 3822
  www.unhchr.ch/html/menu3/b/30.htm
- 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
- 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, on 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, and 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
- 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
- Protocol to amend the Convention for 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, signed at Lake Success, New York, on 12 November 1947
  United Nations, *Treaty Series*, vol. 53, No. 770
- 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
- 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
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by the General Assembly by its resolution 317 (IV) of 2 December 1949
  United Nations, *Treaty Series*, vol. 96, No. 1342
  www.unhchr.ch/html/menu3/b/33.htm

Instruments concerning development

- United Nations Millennium Declaration, adopted by Heads of State and Government at the Millennium Summit of the United Nations on 8 September 2000
  General Assembly resolution 55/2 (see particularly paras. 9, 25 and 26)
  www.un.org/millennium/declaration/ares552e.pdf
- Declaration on Social Progress and Development, proclaimed by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969
  www.unhchr.ch/html/menu3/b/m_progre.htm
- Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986
  www.unhchr.ch/html/menu3/b/74.htm

Tool 1.8 Regional instruments

Overview

This tool lists regional and interregional instruments against trafficking in persons, and websites at which they can be consulted.

Charters and conventions

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Article 4 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa concerns the rights to life, integrity and security of the person. Paragraph 2 *(g)* of that article states that States parties shall take appropriate and effective measures to prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa can be found on the website of the African Commission on Human and Peoples' Rights, at:

www.achpr.org/english/_info/women_en.html

American Convention on Human Rights

The American Convention on Human Rights (also known as the Pact of San José, Costa Rica), entered into force in 1978. It has been acceded to by Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela (Bolivarian Republic of). Article 6 of this Convention, entitled "Freedom from slavery", states:

1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.

2. No one shall be required to perform forced or compulsory labour. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labour, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labour shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

The American Convention on Human Rights is available (in English and Spanish) at:
www.oas.org/juridico/english/treaties/b-32.html

Arab Charter on Human Rights, 2004

The Arab Charter on Human Rights was adopted by the Council of the League of Arab States in 1995 and revised in 2004. Article 10 of the revised Charter prohibits trafficking in persons. That article reads:

1. All forms of slavery and trafficking in human beings are prohibited and are punishable by law. No one shall be held in slavery and servitude under any circumstances.
2. Forced labour, trafficking in human beings for the purposes of prostitution or sexual exploitation, the exploitation of the prostitution of others or any other form of exploitation or the exploitation of children in armed conflict are prohibited.

Article 9 of the Charter states that "trafficking in human organs is prohibited in all circumstances".

The text of the revised Arab Charter on Human Rights can be found at:
www1.umn.edu/humanrts/instree/loas2005.html

Information about the League of Arab States can be found (in Arabic) at:
www.arableagueonline.org

Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers on 3 May 2005 and opened for signature in Warsaw on 16 May 2005, at the Third Summit of Heads of State and Government of the Council of Europe. The Convention is based on the three aims of preventing trafficking, protecting the rights of victims and prosecuting traffickers, and provides for measures to:

- Raise awareness
- Identify victims

- Protect and assist victims both physically and psychologically with their reintegration into society
- Grant renewable residence permits where victims' personal situations so require
- Criminalize trafficking
- Protect the privacy and safety of victims throughout judicial proceedings

The Council of Europe Convention is available at:
www.coe.int/T/E/human_rights/trafficking/PDF_Conv_197_Trafficking_E.pdf

Information on the Council of Europe Campaign to Combat Trafficking in Human Beings is available at:
www.coe.int/trafficking

South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

The South Asian Association for Regional Cooperation (SAARC) was formed in 1985 to increase cooperation among the South Asian countries of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution was adopted in 2002 at the eleventh SAARC Summit, held in Kathmandu, and is the first regional instrument to address trafficking. Its provisions concerning the amendment of domestic laws, capacity-building of law enforcement mechanisms, and regional cooperation support of the Trafficking in Persons Protocol. This commitment was reinforced most recently at the fourteenth SAARC Summit, held in New Delhi in April 2007. All the SAARC countries have signed this Convention and the ratification process has started. The first meeting of the Regional Task Force on implementation of the SAARC Convention relating to trafficking in women and children (established under the Convention) was held on 26 July 2007 in New Delhi.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is available at:
www.unicri.it/wwd/trafficking/legal_framework/asia.php

South Asian Association for Regional Cooperation Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia

The SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia is a commitment to enhance the welfare of children in the region. Article IV, paragraph 3 *(a)* of this Convention commits States parties to ensure that there are appropriate legal and administrative mechanisms and social safety nets in place to protect children from, among other things, trafficking.

The SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia is available at:

www.unicri.it/wwd/trafficking/legal_framework/docs/saarc_convention_on_regional_arrangements.pdf

The African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child entered into force on 29 November 1999. Article 29 of this Charter states that States parties shall take appropriate measures to prevent:

(a) The abduction, the sale of, or trafficking of children for any purpose or in any form, by any person, including parents or legal guardians of the child;

(b) The use of children in all forms of begging.

The African Charter on the Rights and Welfare of the Child is available at:

www.africa-union.org/child/

Declarations

Association of Southeast Asian Nations Declaration against Trafficking in Persons particularly Women and Children

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 on combating trafficking in persons in the ASEAN region, in which they declared that they would undertake, to the extent permitted by their respective domestic laws and policies, 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 of border controls and monitoring mechanisms and the enactment of necessary legislation
- Intensification of cooperation among their respective immigration and law enforcement authorities
- Treating victims of trafficking humanely and providing them with essential assistance, including prompt repatriation

The Declaration is available at:
www.aseansec.org/16793.htm

Bangkok Declaration on Irregular/Undocumented Migration

The Bangkok Declaration on Irregular/Undocumented Migration emerged from an international symposium on migration held in 1999, aimed at enhancing regional cooperation with regard to such migration. The Declaration, made by ministers and governmental representatives of Asian and Pacific countries, calls for cooperation, information exchange, humane treatment of victims of trafficking and stronger criminalization of trafficking in persons.

The Bangkok Declaration is available at:
www.no-trafficking.org/content/Laws_Agreement/multilateral.htm

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, international, intergovernmental and non-governmental organizations and the institutions of the European Union. The Brussels Declaration on Preventing and Combating Trafficking in Human Beings was the final outcome of the conference. The Declaration, aimed at further developing European and international cooperation, concrete measures, standards, best practices and mechanisms, received broad support from participants at the conference. Although originating outside the institutional decision-making

structures of the European Union, the Declaration became another important milestone in the European Union's 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 in this area. 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. Recommendation 2 annexed to the Declaration stipulates that, at the European level, an experts group, comprising representatives of Governments, intergovernmental and 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.

Source: Report of the Experts Group on Trafficking in Human Beings, available at:
http://europa.eu.int/comm/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1204_en.pdf

The Brussels Declaration on Preventing and Combating Trafficking in Human Beings is available at:
http://register.consilium.europa.eu/pdf/en/02/st14/14981en2.pdf

Economic Community of West African States Declaration on the Fight against Trafficking in Persons

At the twenty-fifth Ordinary Session of Authority of Heads of State and Government, of the Economic Community of West African States (ECOWAS), held in Dakar on 20 and 21 December 2001, the Heads of State and Government of the ECOWAS signed the Declaration on the Fight against Trafficking in persons and adopted the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) annexed to the Declaration (see Tool 2.10).

The Declaration is available at:
www.unodc.org/pdf/crime/trafficking/Declarationr_CEDEAO.pdf

More information about ECOWAS is available at:
www.ecowas.int/

The UNODC training manual on the implementation of the ECOWAS Plan of Action against Trafficking in Persons is available at:
www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Nasonini Declaration on Regional Security, 2002 (Pacific Islands Forum)

In the 2002 Nasonini Declaration on Regional Security, the Pacific Islands Forum Leaders recalled their commitment to act collectively in response to security challenges, including transnational organized crime, and underlined the importance of introducing legislation and developing national strategies to combat transnational organized crime, including trafficking in persons, in accordance with international standards.

The Nasonini Declaration on Regional Security 2002 is available at:
www.forumsec.org/_resources/article/files/Nasonini%20Declaration%20on%20Regional%20Security.pdf

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 of interventions based on proper assessment of the situation is a hallmark of successful responses. Planning for action must be based on a sound assessment of both the problem and existing capacities to respond to it, and must be supported by willingness on part of the various groups and agencies involved to cooperate with one another at the local level and with others at the regional and international levels.

The best assessments and strategies are those that are based on effective collaboration between the various agencies that need to be part of the response to the problem

Tool 2.1 offers general guidelines for conducting assessments. Tools 2.2 to 2.5 provide examples and resources to assist with conducting assessments of particular aspects of the trafficking situation and the responses mounted against it.

National action plans must delineate multilaterally agreed upon objectives, priorities for action, activities to be undertaken, the resources required and the respective responsibility of each agency concerned. Tool 2.6 offers some guiding principles in developing strategic responses to trafficking in persons.

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 2.7 offers examples of national action plans and strategies, and Tool 2.8 examples of anti-trafficking rapporteurs. Tool 2.9 offers examples of regional responses. Tool 2.10 provides examples of promising State practice of in interregional cooperation and Tool 2.11 showcases an international initiative against trafficking.

Given the complexity of the problem of human trafficking, real success cannot be achieved at the national level without a strong multi-agency approach (Tool 2.12) and inter-agency collaboration (Tool 2.13) both in developing action plans and in implementing them. The need to develop institutional capacity to implement intervention strategies is addressed briefly by Tool 2.14.

PROBLEM ASSESSMENT

Tool 2.1 General guidelines for conducting assessments

Tool 2.2 Assessment of the national situation

Tool 2.3 Assessment of the national response

Tool 2.4 Assessment of the legal framework

Tool 2.5 Assessment of the criminal justice system

STRATEGY DEVELOPMENT

Tool 2.6 Guiding principles in developing responses to trafficking in persons

Tool 2.7 National action plans and strategies

Tool 2.8 National anti-trafficking rapporteurs

Tool 2.9 Regional action plans and strategies

Tool 2.10 Interregional action plans and strategies

Tool 2.11 An international initiative

Tool 2.12 Developing a multi-agency approach to intervention

Tool 2.13 Developing inter-agency coordination mechanisms

Tool 2.14 Capacity-building and training

PROBLEM ASSESSMENT

Tool 2.1 General guidelines for conducting assessments

Overview

This tool recommends resources to assist in conducting effective assessments.

A systematic review of the local circumstances is required in order to assess properly the human trafficking situation in a given State. The assessment should examine the nature and

extent of the problem and identify the agencies and groups involved in victim protection and assistance. Assessments should be considered as a means of identifying needs.

- National governmental or non-governmental actors should initiate assessments and conduct them jointly with local government and civic society actors. National authorities should also draw upon the expertise of external research institutes.
- External actors can facilitate assessments, where they are sensitive to the local economic, social, cultural, civil and political circumstances.
- Findings should be openly shared with stakeholders for discussion.
- Clear frameworks and questionnaires should be developed before information is gathered.

Needs assessments should begin at the most basic level by considering:

- The extent to which Government agencies and non-governmental organizations are aware of the problem of trafficking
- Whether there is legislation in place to address trafficking and whether it is adequate
- Whether inter-agency governmental agreements or guidelines have been initiated to build cooperation among Government agencies and non-governmental organizations
- The extent to which the Government is making funds available to combat trafficking and assist trafficking victims

Initial consultations with Government and non-governmental agencies should address:

- How the country perceives trafficking in persons and the victims of trafficking
- Whether the country's approach towards trafficking is rights-based
- What the country's general policies are in relation to irregular migration, migrant smuggling and trafficking in persons

Source: Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons: a Practical Handbook* (2004) available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Recommended resources

See also Tool 9.15 on use of standardized data collection instruments.

ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons (International Organization for Migration/Association of Southeast Asian Nations)

This report, published in 2007, discusses the importance of gathering information and knowledge about trafficking in order to combat it. The publication discusses the basic

principles of what data on trafficking is, why it is necessary to combat trafficking and how it is obtained. The publication also provides country studies, examining data from Government sources in Cambodia, Indonesia, the Philippines and Thailand and discussing the data-collection practices of these four countries. On the basis of lessons learned from these country studies, the report makes recommendations for improving the collection of data on trafficking, including recommendations that can be adopted at the agency level, at the national level and at the level of ASEAN, and elaborates on the following four best practice principles in data collection:

Principle 1. Data must be relevant to clearly defined objectives

Principle 2. Data needs to be regular and reliable

Principle 3. Data must be protected

Principle 4. Data must be turned into information and knowledge

This publication is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=14477

Organization for Security and Cooperation in Europe handbook

The Organization for Security and Cooperation in Europe (OSCE) has published *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons: a Practical Handbook*, 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.

Included in the handbook are three useful questionnaires that can be used in preparing for an assessment of the situation in a country; each concentrates on one aspect of a comprehensive assessment:

Questionnaire I. Assessment of country-specific conditions and needs

Questionnaire II. Assessment of legal framework

Questionnaire III. Analysis of Actors and Organizations

The OSCE handbook can be found at:
www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Tool 2.2 Assessment of the national situation

Overview

This tool provides examples of the assessment process and the methodologies and survey instruments used.

Promising practice

Assessment of the situation in Benin, Nigeria and Togo

As part of a UNODC project, several instruments were developed to assist in undertaking a comprehensive assessment of the situation in respect of human trafficking in Benin, Nigeria and Togo and of the response capacity of existing organizations and mechanisms. These instruments included questionnaires designed to obtain information from persons in the following agencies and groups:

(a) Law enforcement
(b) Immigration
(c) Prosecution service
(d) International Criminal Police Organization (INTERPOL)
(e) Magistrates and judges
(f) Embassies/consulates
(g) Non-governmental organizations
(h) Government departments and ministries
(i) Adult victims
(j) Child victims

They also included an exercise to gather data on prevention projects and services for victims of trafficking, 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 and with victims. A total of 13 instruments were designed, 10 of which were questionnaires while the remaining three 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 the police, immigration and prosecution services, judicial experts and INTERPOL. The content of the survey instruments is described in more detail below.

Survey instruments for law enforcement, immigration, prosecution service and INTERPOL personnel and members of the judiciary (magistrates and judges)

The survey instruments consisted of open-ended questions, varying in number from 33 to 48. 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 practice.

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 relating to 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 on 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 guideline.

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, focusing on the following: *(a)* organizations subsidizing projects; *(b)* geographical

coverage, i.e. villages, cities and areas of the country in which these projects 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, victim services such as counselling, repatriation and reintegration services, training for the police and the judiciary, etc.); *(d)* beneficiaries 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 achieved was sustainable; and *(g)* known results.

This assessment is available at:
www.unodc.org/pdf/human_trafficking/ht_research_report_nigeria.pdf

Unchartered Migration: Rapid Assessment Report of Trafficking in Persons from the Dominican Republic into Puerto Rico (Organization of American States)

In April 2006, the Organization of American States (OAS) conducted a rapid assessment of trafficking of persons into Puerto Rico from the Dominican Republic. The rapid assessment was based on the fieldwork of an OAS researcher, interviews with Government officials and representatives of civil society, and a review of the existing literature and limited statistical information. The aim of the report was to ascertain the likelihood that men, women and children are trafficked into Puerto Rico both as a destination and as a transit point for entry into the United States of America.

Based on the findings of this report, OAS recommended that officials should improve their data collection with a view to obtaining more detailed information about the situation, that governmental and police officials in both Puerto Rico and the United States should receive training on victim identification, and that the Government of Puerto Rico should work with non-governmental organizations and civil society organizations to raise awareness among the Puerto Rican population concerning the issue of trafficking.

This and other OAS rapid assessment reports are available at:
www.oas.org/atip/atip_Reports.asp

Trafficking in Persons: an Analysis of Afghanistan (International Organization for Migration)

In the trying climate of transitional Afghanistan, the International Organization for Migration (IOM) undertook an analysis of trends in trafficking in persons and responses to them in

Afghanistan which it published in January 2004. The methodology for gathering data had to be fully cognizant of special security considerations. It involved a review of relevant existing literature, distribution of surveys throughout and beyond Afghanistan, interviews with stakeholders, case studies and analysis.

This analysis by IOM of the trafficking situation in Afghanistan is available at:
www.old.iom.int/documents/publication/en/afghan_trafficking.pdf

Study on Trafficking in Women, Children and Adolescents for Commercial Sexual Exploitation in Brazil

(Reference Centre for Studies and Actions in Favour of Children and Adolescents (CECRIA), Brazil, and Save the Children, Sweden)

This landmark study, published in July 2003, highlighted the magnitude of the trafficking problem in Brazil and documented 241 internal and international routes used for the trafficking of Brazilian women and children. As a result of the findings of this study, the Intergovernmental Parliamentary Commission of Inquiry was instituted in 2003, bringing national attention to the issue through public hearings. Legislative changes—including amendments to the Penal Code and the Statute for the Protection of Children and Adolescents—resulted, as did the ratification of the Trafficking in Persons Protocol by Brazil the following year. Also in 2004, the Ministry of Justice, in collaboration with UNODC, increased efforts to ascertain the situation with regard to trafficking in Brazil through a pilot project conducted in four states and an increase of funds for the training of professionals in relation to victim assistance.

This study is available in English, Spanish and Portuguese at:
www.scslat.org/search/publieng.php?_cod_39_lang_e

Report on People Smuggling, Human Trafficking and Illegal Migration (Pacific Immigration Directors' Conference)

This report of the Pacific Immigration Directors' Conference on people smuggling, human trafficking and illegal migration is based on survey responses from the 23 member States of the Conference. It presents a clear picture of issues concerning the movement of people in the Pacific Islands region, including movement due to the trafficking of people. The report also addresses the response to trafficking and highlights the fact that only around half of the Conference's members have appropriate human trafficking legislation in place.

The report is available to Conference members only at:
www.pidcsec.org

Lessons learned

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

A rapid assessment project conducted in 1999 in the Philippines by UNODC and the United Nations Interregional Crime and Justice Research Institute (UNICRI) revealed 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. Although 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 effort and inefficiency.

The assessment noted the need for cooperation between Government agencies and the criminal justice system to be strengthened. 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, 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:
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:

www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf

Tool 2.3 Assessment of the national response

Overview

This tool provides examples of assessments carried out to analyse aspects of the existing response to trafficking in persons.

The following examples highlight the value of multi-agency, cross-sectoral approaches to conducting assessments.

Promising practice

Assessment of referral practices to assist and protect the rights of trafficked persons in Moldova

As part of the UNODC project "Building capacity to combat trafficking in persons in the Republic of Moldova", an assessment of referral practices to assist and protect the rights of trafficked persons in Moldova was completed in February 2007. The assessment was based on interviews conducted in Chisinau, Calarasi and Balti, as well as on observation, policy documents, legislation, non-governmental organization reports and suggestions from participants in a round-table discussion organized by UNODC in partnership with the Ministry of Social Protection, Family and Child and IOM in December 2006.

The chapters of the assessment report reflect each step in the process of victim assistance and referral, from identification to rehabilitation:

The report outlines the current response by multiple governmental and non-governmental organizations in Moldova and the extent of their cooperation for the benefit of victims. It identifies gaps and constraints in responses and makes recommendations for improving: the coordination between actors who come into contact with victims of trafficking; the quality of direct services to victims; and the effectiveness of initial efforts to establish a national referral mechanism.

An Assessment of Referral Practices to Assist and Protect the Rights of Trafficked Persons in Moldova (Chisinau, February 2007), is available at:
www.unodc.org/unodc/en/human-trafficking/publications.html

Needs analysis for strengthening anti-trafficking structures and cross-border cooperation in selected border locations in Myanmar

In August and September 2006, a joint needs assessment team travelled to four border locations in Myanmar to assess local law enforcement mechanisms for combating human

trafficking across borders. The team consisted of representatives of the Anti-Human Trafficking Unit of the Ministry of Home Affairs of Myanmar, UNODC and the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion (UNIAP).

The overall purpose of the mission was to assess how the UNODC border liaison office mechanism could be expanded to address human trafficking, with Myanmar serving as a model for other countries. The overall goal is to strengthen the law enforcement response to human trafficking at both the national and the regional levels. The initiative for the mission came from the Ministry of Home Affairs of Myanmar, within which the Department of Transnational Crime is responsible for the issue of trafficking. The objectives of the assessment mission were to:

- Conduct a needs analysis of the human trafficking-related problems and local responses at four border locations
- Assess existing cooperation among law enforcement agencies (both national and cross-border) on human trafficking
- Discuss ways to expand the work of border liaison offices to include the issue of human trafficking, by sharing experience and best practices of cooperation
- Provide technical inputs for local authority and Government staff by providing an overview of human trafficking, including the definition of the crime
- Prepare the groundwork for the Myanmar National Workshop on Cross-border Cooperation to Counter Human Trafficking
- Explore potential areas of support to strengthen anti-trafficking responses

The assessment was conducted as follows:

Pre-departure meetings

Several pre-departure preparation meetings were held with UNIAP, UNODC and law enforcement agencies to establish which existing cross-border structures could be built upon.

Desk review

After the mission outline had been agreed upon, both UNIAP and UNODC conducted a desk review to learn about each other's work, the human trafficking situation in the country, the local trafficking situations at each location and national and local responses.

Workshops

At each of the locations visited, the assessment team conducted a workshop with key local actors involved in anti-trafficking activities and law enforcement, including border police, immigration staff, local authorities and national and international non-governmental organizations. Basic training was provided to clarify definitions and ensure common understanding of the problem under discussion. The workshops then focused on the local trafficking situation and ongoing responses, with presentations by stakeholders, follow-up questions from the assessment team and group discussion.

Individual meetings

Individual meetings were held with key agencies' law enforcement officers at which questionnaires were distributed focusing on assessing:

- The human trafficking situation
- The functioning of the response mechanism
- Other stakeholders involved (Government/non-governmental organizations/international non-governmental organizations)
- Cooperation mechanisms existing between stakeholders

Site visits

The assessment team visited both official and unofficial border crossings, border offices, law enforcement offices, reception centres and other infrastructure relating to human trafficking and cross-border cooperation.

Debriefing

Information and data collected during the mission were reviewed by UNIAP, UNODC and participating Government agencies.

Workshop

To ensure that the momentum achieved during the assessment mission was maintained, it was decided at discussions between UNIAP, UNODC and the Government of Myanmar to convene a national workshop to bring together border staff and other stakeholders to:

- Share experiences
- Receive training on human trafficking
- Develop individual action plans for individual border locations and develop a workplan outlining necessary steps to improve local capacity and cross-border cooperation

Source: "Needs analysis report: strengthening anti-trafficking structures and cross-border cooperation in selected border locations in Myanmar", UNODC Regional Centre for East Asia and the Pacific and United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion.

Evaluation of anti-trafficking policies in Romania

At the request of the Inter-ministerial Working Group for the coordination and assessment of activities to prevent and combat trafficking of human beings, and with the technical and financial support of UNICEF Romania, an evaluation of anti-trafficking response in Romania was carried out. The research entailed an analysis of legislation and relevant documentation and of data collection in the field, using both qualitative and quantitative methods. The evaluation report offers chapters on *(a)* the institutional framework in Romania, *(b)* the financial resources involved in anti-trafficking policies, *(c)* profiles of trafficking victims and case studies, *(d)* the protection and assistance provided to victims of trafficking,

(e) prevention efforts, *(f)* statistical data, *(g)* attitudes towards and social perceptions of migration and trafficking, and (h) conclusions and recommendations.

The Evaluation is available at:
www.childtrafficking.org/pdf/user/UNICEF_Evaluation_of_Antitrafficking_Policies_in_Romania.pdf

Action to Prevent Child Trafficking in South-Eastern Europe: a Preliminary Assessment

An independent consultant, in collaboration with Terre des Hommes and the UNICEF Regional Office for Central Eastern Europe and the Commonwealth of Independent States, prepared a report focusing on efforts to prevent trafficking in children in Albania, Moldova, Romania and the United Nations-administered Province of Kosovo. The report was published in June 2006.

Given that children are recruited and transported in a different way from adult victims of trafficking, taken to different destinations and exploited for different purposes, prevention efforts with regard to trafficking in children should be specifically tailored. For this reason, the report looks at the effectiveness of prevention approaches, particularly those actions taken to address the roots of the problem. It considers what constitutes good practice in the design of prevention approaches, what strategies have been tried, and strengths and weaknesses of projects and programmes, and makes recommendations as to measures which need to be put into place to specifically protect children from trafficking. The report is mindful of the human-rights-based approach, which places the rights of trafficked persons—in this case children—at the centre of consideration and evaluates strategies according to their impact on the individuals concerned.

The author of the report arranged structured interviews with 23 children using a standardized questionnaire. The questions asked were aimed at seeking information about three issues:

1. The child's awareness of any measures to prevent the trafficking of children (and how the child reacted to these)
2. The child's views about any assistance or support which he or she received after being trafficked
3. The child's level of vulnerability and how this factor was addressed, before, during or after the trafficking process

Several procedures were observed in the conduct of the interviews:

- Interviews were conducted in the child's language
- Interviewers were known to and trusted by the children before the interviews, which were conducted as informal conversations rather than formal interviews
- Girls and young women were questioned by women rather than men

- Efforts were made to ensure that interviews did not cause further harm to the child (e.g. by reawakening painful memories)
- A case manager or other professional familiar with the child's trafficking experience provided as much information as possible initially, to spare the child having to answer questions he or she had already been asked
- Written consent was obtained from parents, relatives or shelter managers with legal responsibility for the child

The preliminary assessment can be downloaded at:
www.unicef.org/ceecis/Assessment_report_June_06.pdf

Tool 2.4 Assessment of the legal framework

Overview

This tool offers guidelines and resources for assessing a national legal framework. See also Tool 3.2 on criminalization of trafficking in persons.

Legislation, as well as legal procedures and practices, varies widely among States. In some States, existing laws on labour, migration, and organized crime 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 service 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 your State's 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 for storing and sharing information about the identification of possible victims and/or traffickers in transit?

An example of such an assessment is Questionnaire II "Assessment of legal framework" in *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons* (Warsaw, OSCE, 2004), available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Recommended resources

Anti-Trafficking Assessment Tool

(UNODC Regional Centre for East Asia and the Pacific, in collaboration with the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion)

This succinct tool was designed by the UNODC Regional Centre for East Asia and the Pacific and UNIAP for use by non-legal researchers to rapidly assess jurisdictional

concordance with the requirements of the Trafficking in Persons Protocol and the Organized Crime Convention. The tool offers checklists relating to mandatory requirements and non-mandatory provisions of the Convention and the Protocol.

The Anti-Trafficking Assessment Tool is available at:
www.unodc.un.or.th/material/document/TraffickingChecklist.pdf

The Human Trafficking Assessment Tool

(Central European and Eurasian Law Initiative of the American Bar Association)

The Human Trafficking Assessment Tool of the Central European and Eurasian Law Initiative of the American Bar Association measures a country's compliance with the Trafficking in Persons Protocol. It analyses national anti-human trafficking laws and Government efforts to combat trafficking against the obligations set forth in the Protocol and the Convention. The Human Trafficking Assessment Tool is intended to:

- Assist Governments to prioritize areas of concern, draft strong anti-trafficking legislation and implement effective anti-trafficking strategies
- Assist anti-trafficking non-governmental organizations to monitor compliance with the Trafficking in Persons Protocol
- Encourage collaboration between non-governmental organizations and Governments
- Monitor long-term performance of countries through second- and third-round assessments

The tool is divided into two sections; the first is a de jure assessment (focusing on whether the country's domestic laws comply with the obligations set forth in the Trafficking in Persons Protocol) and the second is a de facto assessment (of the country's programmatic efforts to combat trafficking in practice and whether they comply with the Protocol).

An Introduction to the Human Trafficking Assessment Tool (American Bar Association/Central European and Eurasian Law Initiative, Washington, D.C., 2005) is available at:
http://www.abanet.org/rol/publications/assessment_tool_htat_manual_intro_2005.pdf

Promising practice

Assessment of the legal system in Moldova

In 2005, an assessment was conducted of compliance by Moldova with the Trafficking in Persons Protocol, using the Human Trafficking Assessment Tool of the Central European and Eurasian Law Initiative of the American Bar Association (see above). This assessment was a pilot implementation of the tool. A team of experts reviewed laws, codes, action plans and other documentation relevant to human trafficking and responded to questions pertaining to compliance by Moldova with the Trafficking in Persons Protocol that closely reflected the language of the Protocol's substantive provisions. Assessment of the implementation of the Protocol in practice was based on interviews with law enforcement officers, prosecutors, Government officials, representatives of international organizations and members of the non-governmental organization community. Non-governmental organization focal groups also responded to questions relating to victim protection and prevention measures, and high-school students were interviewed to gauge the impact of awareness-raising campaigns.

The full assessment report is available at:
www.abanet.org/rol/publications/moldova-htat-eng-may-2005.pdf

Assessment of the legal system in Viet Nam

A group of legal experts in the Department for Criminal and Administrative Laws of the Ministry of Justice of Viet Nam conducted an assessment of the Vietnamese legal system in relation to the Trafficking in Persons Protocol. This assessment was undertaken in the framework of a UNODC project, "Strengthening of the legal and law enforcement institutions in preventing and combating trafficking in persons in Viet Nam", and in collaboration with UNICEF. The assessment report—entitled "Assessment of the legal system in Viet Nam in comparison with the Protocols on Trafficking in Persons and Smuggling of Migrants, supplementing the United Nations Convention against Transnational Organized Crime"—addresses the areas of investigation and prosecution, victim protection and support, repatriation and reintegration, and international and regional cooperation. Under each section it assesses Vietnamese domestic law against international law and makes recommendations to bring it further into line with international law.

The full report is available at:
www.unodc.org/vietnam/en/publications.html

Comparative Analysis of International Instruments and Macedonian Legislation on Counter-Trafficking and Illegal Migration

(International Organization for Migration, 2007)

This trilingual comparative study of the domestic legislation of the former Yugoslav Republic of Macedonia and of the Trafficking in Persons Protocol (and the Migrants Protocol) assesses the compliance of the anti-trafficking legislation of the former Yugoslav Republic of Macedonia against international instruments in the areas of investigation and prosecution, protection and prevention. The study offers recommendations for the amendment of the legislation of the former Yugoslav Republic of Macedonia to bring it into greater compliance with international instruments.

The full report is available at:
www.iom.hu/PDFs/TEMIS%20Analysis.pdf

Legal Review on Trafficking in Persons in the Caribbean

In June 2005, the IOM conducted a legal review of trafficking in persons in the Bahamas, Barbados, Guyana, Jamaica, Netherlands Antilles, Saint Lucia and Suriname. The review provides a comparative assessment of international and regional instruments, and of domestic legislation, considers the criminal justice system and protection policies of those countries and makes recommendations for the reform of current strategies.

The review is available at:
www.oas.org/atip/atip_Reports.asp

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 immigration, labour or criminal law that are being exploited or abused by traffickers.

An example of one such legal assessment *Trafficking in Women in Canada: a Critical Analysis of the Legal Framework Governing Immigrant Live-in Caregivers and Mail-Order Brides*. In this analysis, the Canadian legal framework regulating the hiring of immigrant live-in caregivers is examined and issues are identified in relation to immigration law, social legislation, labour

law and human rights and contract law. The analysis also examines the mail-order bride trade. It addresses many legal areas indirectly governing this phenomenon in the absence of legislation specifically addressing the mail-order bride industry: contract law, immigration law, the laws on marriage and divorce, private international law and criminal law.

The analysis can be consulted at:
www.swc-cfc.gc.ca/pubs/pubspr/066231252X/200010_066231252X_2_e.html

Tool 2.5 Assessment of the criminal justice system

Overview

This tool offers resources for conducting assessments of criminal justice systems.

The terms of reference of an assessment mission may call for assessment of a specific aspect of the criminal justice system (such as policing or the prison system). A complete assessment will always entail an assessment of the country's legal framework (see Tool 2.4).

Recommended resources

Criminal Justice Assessment Toolkit

UNODC, together with OSCE, has created the *Criminal Justice Assessment Toolkit* as a practical guide to assist in the assessment of criminal justice systems and in the design of interventions aimed at integrating into them United Nations crime prevention and criminal justice standards and norms, as well as to assist in training on these issues.

The tools are designed to be used in civil or common law countries, with simple or complex institutions or processes, and will be particularly useful for countries undergoing transition or reconstruction. The toolkit is of use both for legal experts and for assessors who may be conducting assessments in areas distinct from criminal justice. The tools have been grouped into criminal justice sectors:

Policing

- Public safety and police service delivery
- The integrity and accountability of the police

- Crime investigation
- Police information and intelligence systems

Access to justice

- The courts
- The independence, impartiality and integrity of the judiciary
- The prosecution services
- Legal defence and legal aid

Custodial and non-custodial measures

- The prison system
- Detention prior to adjudication
- Alternatives to incarceration
- Social reintegration

Cross-cutting issues

- Criminal justice information
- Juvenile justice
- Victims and witnesses
- International cooperation

The Toolkit is available in hard copy, and electronically at:
www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html

The electronic version of this toolkit is updated on an ongoing basis.

Getting it Right: Collaborative Problem Solving for Criminal Justice

The United States Department of Justice and the National Institute of Corrections published a guide in June 2006, entitled *Getting it Right: Collaborative Problem Solving for Criminal Justice*. Although the tools contained in the guide are intended for the context of the United States, resources can be drawn from it and adapted for other criminal justice systems. Section Four focuses on building understanding of the criminal justice system. The six chapters in this section concern:

(a) Obtaining necessary information

(b) Planning the assessment

(c) Mapping the system

(d) Documenting and assessing current policies and practices

(e) Gathering information on offenders

(f) Documenting and assessing available resources

Additionally, the guide provides sample exercises, strategies, checklists, questionnaires and task lists.

This guide is available at:
http://nicic.org/Library/019834

STRATEGY DEVELOPMENT

Tool 2.6 Guiding principles in developing responses to trafficking in persons

Overview

This tool suggests guiding principles which should be borne in mind when developing strategies and action plans, and resources which can assist.

There are some key principles which must be at the core of all national, regional and international strategies and plans of action mounted against trafficking in persons. Several resources offer principles which should be borne in mind during the strategic planning process; the following examples are only a selection.

Recommended resources

Ten guiding principles in developing action plans and strategies against trafficking in persons

(Organization for Security and Cooperation in Europe)

1. Protecting the rights of trafficked persons should be the first priority of all anti-trafficking measures;

2. An infrastructure to combat human trafficking should work on the basis of a broad definition of trafficking in order to have the ability to respond rapidly to different forms of trafficking;
3. Support and protection services should be accessible for all categories of trafficked persons;
4. A protection mechanism should include a wide range of different specialized services, addressing the specific needs of each individual;
5. Victim-protection mechanisms based on human rights can help secure successful prosecution;
6. Combating trafficking in human beings requires a multidisciplinary and cross-sector approach, involving all relevant actors from Government and civil society;
7. A structure to combat trafficking in human beings should assess and build on existing national capacity in order to foster ownership and sustainability;
8. The guiding principles of an action plan or strategy should include transparency and assignment of clear responsibilities and competencies according to the different mandates of all actors involved;
9. Action plans and strategies are building blocks of effective regional and international cooperation to combat trafficking and assist its victims;
10. The process of implementing an action plan or strategy should be embedded in an overall democratization process to ensure accountability and legitimacy.

Source: *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons* (Warsaw, OSCE, 2004), available at:
www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Guiding principles for forming the conceptual framework for comprehensive anti-trafficking responses

(International Centre for Migration Policy Development)

Government ownership

State actors should assume full participation, responsibility and accountability in defining objectives, implementing activities and achieving outcomes of national anti-trafficking responses.

Civil Society participation

Both the development and implementation of programmes and measures against trafficking must involve stakeholders who are independent of the State and outside the Government and public administration. Stakeholders must play an active role in decision-making and their views should be adequately reflected in the design and implementation of anti-trafficking responses.

Human rights-based approach

Anti-trafficking responses should be based normatively on international human rights standards and operationally should promote and protect human rights, especially those of victims. Such an approach asserts that the human rights of victims are at the core of anti-trafficking responses.

Interdisciplinary and cross-sectoral approach

Effective counter-strategies must address different aspects of trafficking simultaneously. Knowledge of and expertise in different disciplines and their methods must be combined to develop measures against trafficking.

Sustainability

Structures and systems that are put in place must endure over the long term and adapt creatively to changing conditions. There should be no critical dependencies (e.g., major external donor funding) which could compromise the longevity of the response.

Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response (Vienna, 2006) available from the International Centre for Migration Policy Development (www.icmpd.org). Section B of this resource deals specifically with guiding principles. Section F of this resource provides a model strategy.

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

(Commonwealth Secretariat)

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.

The Human Rights Unit of the Commonwealth Secretariat convened a Commonwealth expert group on unlawful trafficking of women and children in June 2002, to develop strategies to combat trafficking in accordance with international standards and identify guidelines based on gender and rights-based approaches, drawing on international guidelines. The Expert Group on Strategies for Combating the Trafficking of Women and Children asserted that responses to trafficking must be mainstreamed at all levels of Government policy and programming and that coordinated action should be undertaken at the regional and international levels.

The Expert Group developed a set of proposals concerning:

(a) Gender-responsive, rights-based approaches to trafficking;

(b) Prevention strategies;

(c) Assistance to victims of trafficking;

(d) Research and the creation of a database;

(e) Treatment of child victims.

The Report of the Expert Group on Strategies for Combating Trafficking of Women and Children is available at:

www.thecommonwealth.org/Internal/39443/expert_groups/

Tools for developing national plans of action against commercial sexual exploitation of children

Though not specifically focused on trafficking, the Economic and Social Commission for Asia and the Pacific *Toolkit for Implementing and Monitoring the East Asia and Pacific Regional Commitment and Action Plan against Commercial Sexual Exploitation of Children* is a valuable resource. It contains various tools for developing and implementing plans of action and sample worksheets to facilitate the process.

The Toolkit is available at:

www.unescap.org/publications/detail.asp?id=1156

Tool 2.7 National action plans and strategies

Overview

This tool contains an overview of responses to trafficking in persons, recommended resources and some examples of national strategies and plans.

Overview of responses to trafficking in persons

Structure

Comprehensive national anti-trafficking responses should cover two levels, both of which should reflect guiding principles (see Tool 2.6):

- *Strategic level* (Strategy)

  Refers to "what" should be achieved. The strategy should include:

  Preamble

  Background/analysis

  Strategic goals

  Indicators for each strategic goal and specific objective

- *Operational level* (National action plan)

  Refers to "how" the strategic goals can be achieved. The national action plan identifies concrete actions to achieve the strategic goals and specific objectives identified in the strategy. It should include:

  Activities/sub-activities

  Assigned responsibilities and timelines

  Resource plans and budget

  Indicators

Source: *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response* (Vienna, 2006), International Centre for Migration Policy Development. For more information about this resource visit www.icmpd.org

Content

The content of each plan is obviously dictated by national circumstances, but effective plans usually share some of the same features. Good plans:

- State the major objectives to be pursued and around which there can be a consensus for action
- 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
- Delineate how progress towards the achievement of specific goals and objectives is to be monitored and eventually evaluated
- 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.

Recommended resources

Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response

The International Centre for Migration Policy Development (ICMPD) has developed *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response*, (Vienna, 2006). This resource is available from IMCPD. The guidelines provide a succinct overview of the structure of a national trafficking response.

For more information on this resource visit www.icmpd.org

Crime Reduction Toolkit on trafficking of people

The United Kingdom Home Office Crime Reduction Toolkit on trafficking of people, particularly its section 4, offers some suggestions on the development of local strategies against trafficking. It is intended for use by senior officers responsible for developing crime-reduction strategies and by officers and staff in relevant agencies responsible for implementing them.

The toolkit can be consulted at:
www.crimereduction.gov.uk/toolkits/tp00.htm

Guidelines for National Plans of Action to Combat Trafficking in Human Beings

The Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings has created guidelines for establishing national anti-trafficking action plans. The guidelines address objectives, activities and achievement indicators and suggest entities that might assume responsibility for implementing action plans. They cover the areas of research and assessment, awareness-raising, prevention, victim assistance and support, return and reintegration, law reform, law enforcement, and international law enforcement cooperation and coordination.

The guidelines can be consulted at:
www.stabilitypact.org/trafficking/atap-2001-guidelines.doc

Promising practice

Albania

The Albanian National Strategy Framework and National Action Plan for Combating Trafficking in Human Beings 2005-2007 can be obtained at:

www.caaht.com/resources/NationalStrategy_2005-7_ENGLISH.pdf

A report on the implementation of the Albanian National Strategy in 2006 can be found at:

http://tdh-childprotection.org/rcpp_content/doclib/477_EN.pdf

Armenia

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

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

Australia

The Action Plan to Eradicate Trafficking in Persons of the Government of Australia is based on four central elements:

- Prevention
- Detection and investigation
- Criminal prosecution
- Victim support and rehabilitation

The Action Plan can be obtained at:

www.ag.gov.au/www/agd/agd.nsf/Page/Publications_AustralianGovernmentsActionPlantoEradicateTraffickinginPersons-June2004

Bangladesh

In 2001, the Ministry of Women and Children Affairs established a core group consisting of national and international non-governmental organizations, and United Nations agencies to assist the Government of Bangladesh in adopting a national plan of action. The result was the National Action Plan against Sexual Abuse and Exploitation of Children, including Trafficking, which is commendable for the participatory approach taken to its formulation. Not only were the views of non-governmental organizations, Governments, divisional and district-level officials solicited for the plan of action, but children's views were also sought.

Bosnia and Herzegovina

The State Coordinator for Combating Trafficking in Human Beings and Illegal Migration issued the State Action Plan for Combating Trafficking in Human Beings 2005-2007. The anti-trafficking response is based on:

(a) Principles of human rights;

(b) Participation (including clearly delineated roles of authorities);

(c) An interdisciplinary and multisectoral approach;

(d) The principle of non-discrimination;

(e) The principle of the inclusion of civil society;

(f) The principle of sustainability.

The State Action Plan is available at:
www.anti-trafficking.gov.ba/fajlovi/state_action_plan_2005-2007.doc-51.doc

The Operational Plan for its implementation is available at:
www.anti-trafficking.gov.ba/fajlovi/Operativni_plan_za_2007_eng.pdf-97.pdf

Brazil

The work of an intergovernmental working group under the Brazilian Ministry of Justice and the Special Secretariats for Human Rights and Women's Policy led to the issuance, after extensive public consultation, of Decree 5.948, which is the basis for the development of a national action plan to combat trafficking. The proposed national action plan sets out guidelines, priority actions and specific objectives to be executed by relevant Government ministries, and targets for implementation.

The cooperative spirit with which the national action plan has been drafted will have to be maintained after its approval by presidential decree; most actions under the plan are at the state and local levels, although the federal Government maintains overall responsibility for programmes and objectives to be carried out by various ministries and sectors. Cooperative agreements with states will be obligatory to ensure the implementation of the actions and activities called for in the National Action Plan.

Further information about the development and implementation of the National Action Plan of Brazil is available, in Portuguese, on the UNODC Brazil website at:
www.unodc.org/brazil/programasglobais_tsh.html

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: www.humantrafficking.org/publications/346

On 17 March 2000, the Council of Ministers of Cambodia adopted the Five-Year Plan against Sexual Exploitation of Children, 2000-2004.

The plan can be obtained at:
www.ecpat-esp.org/documentacion/planes-nacionales/Camboya.pdf

Colombia

After the Colombian Congress adopted Law 985/2005, the national anti-trafficking strategy of Colombia was raised to the level of public policy. The national strategy was drafted in line with both Colombian Law 985/2005 and the Trafficking in Persons Protocol. UNODC hosted a three-day workshop for officials from 14 national agencies which produced a draft document articulating public policy and coordinating relevant authorities. The Integral National Anti-Trafficking Strategy, which resulted from this process, is based on five pillars:

- Prevention and training
- Criminal prosecution
- International cooperation
- Protection and assistance to victims and witnesses
- Information systems

Croatia

The Government of the Republic of Croatia has adopted the National Programme for Suppression of Trafficking in Persons 2005-2008 and the yearly Action Plan for Suppression of Trafficking in Persons. The Action Plan covers the key issues of:

- Legislative framework
- Identification of victim and prosecution of traffickers
- Assistance and protection
- Prevention
- Education
- International cooperation
- Coordination of activities

Mindful of the distinct issues relating to trafficking in children, the National Committee for the Suppression of Trafficking in Persons has also released the National Plan for the Suppression of Trafficking in Children, October 2005-December 2007. This plan follows the same pattern but reflects children's particular rights, including:

- The best interests of the child in planning and implementation
- Non-discrimination between children of all nationalities
- Active participation of the child
- Communication in the child's mother tongue
- Protection of the child's personal data
- Acceptance of the child's long-term interests

- Efficiency and urgency of decision-taking, to avoid additional suffering
- The child's right to information
- The child's right to protection

Both national plans are available at:
www.ljudskaprava-vladarh.hr/default.asp?ru=188

Denmark

In 2007, the Government of Denmark adopted a revised National Action Plan to Combat Trafficking in Human Beings 2007-2010. This plan replaces the former national action plan, which ran until 2006. It focuses on four key areas of intervention:

- Strengthening investigative measures
- Strengthening social services to support victims
- Limiting demand and increasing public awareness to prevent human trafficking
- Improving international cooperation to prevent human trafficking

The National Action Plan is available at:
http://ligeuk.itide.dk/files/PDF/Handel/Menneskehandel_4K.pdf

Finland

The Government of Finland, at its general session on 25 August 2005, approved the National Action Plan on Combating Human Trafficking. The plan was drafted in accordance with human rights principles. A central component is the rapid identification and assistance of victims, promoted through the education of authorities and civil society actors. The Plan also places strong emphasis on public awareness raising and on the prosecution of offenders.

The Plan of Action is available at:
http://formin.finland.fi/public/default.aspx?nodeid=38595&contentlan=2&culture=en-US

Greece

The "Actions against Trafficking in Human Beings" completed by the Special Committee in 2004 were based on coordinated efforts of ministries to conduct a range of actions including:

- Monitoring human trafficking
- Victim identification and protection
- Establishing and operating shelters
- Medical and psychological support
- Legal and administrative assistance
- Repatriation
- Rehabilitation

- Education, vocational training and employment integration for victims
- Police training and education
- Education of prosecutors and the judiciary
- Public awareness-raising

The updated anti-trafficking programme of Greece and the 2006 progress report are available at:
www.greekembassy.org/Embassy/content/en/Article.aspx?office=1&folder=904&article=19612

Indonesia

The Indonesian National Plan of Action for the Elimination of Trafficking in Women and Children was enacted in 2002. Its overall objectives are:

- 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 of the laws dealing with trafficking in persons activities, especially activities that involve women and children

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

- 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:
www.icmc.net/pdf/traffreport_en.pdf

Israel

In 2007, the State of Israel elaborated two national action plans against trafficking. One, dated August 2007, is entitled "National Plan regarding the Battle against Trafficking in Persons for the Purpose of Prostitution". The other, dated April 2007, is entitled "National Plan regarding the Battle against Slavery and Trafficking in Persons for the Purposes of Slavery or Forced Labour". The former (and more elaborated of the two) is based on

recommendations of a subcommittee appointed by the Committee of Directors General regarding the Battle against Trafficking in Persons. This plan is commendable for addressing both cross-border and internal trafficking, and for its prioritization of specific goals. Its five highest priorities are strengthening of the border with Egypt, awareness-raising with regard to criminal activities, the creation of a victim identification toolkit, promotion of safe return of victims to their country of origin and provision of adequate medical treatment to victims with legal status in Israel.

Kosovo

The drafting of the Kosovo Action Plan to Combat Trafficking in Human Beings took place in a post-conflict and transitional climate giving rise to particular challenges, ranging from socio-economic problems to war trauma and weakened infrastructure and mechanisms to fight cross-border crime.

The process of drafting the Action Plan was highly cooperative. It was undertaken at the initiative of the Advisory Office of Good Governance, Human Rights, Equal Opportunities and Gender Issues and was led collaboratively with the Office of the Prime Minister. Representatives of the Provisional Institutions of Self-Government, the United Nations Interim Administration Mission in Kosovo (UNMIK) Department of Justice and the UNMIK police, and local and international representatives of the judiciary in Kosovo participated in the drafting process, which was also supported by other UNMIK agencies, international organizations and non-governmental organizations. The drafting process was carried out in several phases of consultation and finalized in April 2005. The main principles on which the Action Plan is based are:

- Government ownership
- Civil society participation
- Human-rights-based treatment of victims
- Interdisciplinary cooperation at the ministerial and local levels and between Governments, international organizations and non-governmental organizations
- Evaluation and sustainability

The framework offered by the plan centres on the strategic objectives of prevention, protection and prosecution. An organizational chart for implementation is provided.

The Action Plan is available at:
www.unmikonline.org/civpol/gender/doc/Kosovo_trafficking.pdf

Combating Human Trafficking in Kosovo: Strategy and Commitment (United Nations Interim Administration Mission in Kosovo)

UNMIK has a "zero tolerance" policy on trafficking in persons. In its May 2004 Strategy and Commitment document, it evinces a multidimensional coordinated approach that includes stakeholders such as the police, the justice sector, health and social services departments, United Nations agencies, other organizations such as IOM and

non-governmental organizations. The key elements of the UNMIK approach to fighting trafficking in persons are:

1. Prioritizing human trafficking in the overall fight against organized crime
2. "Zero tolerance" enforcement against traffickers and pimps
3. A strong human rights framework to protect and assist victims
4. Strict enforcement against UNMIK staff violating the UNMIK Code of Conduct
5. A regional approach to address the project within the framework of international cooperation
6. Sustainability through local involvement in a multidimensional approach

The Strategy and Commitment document is available at:
www.unmikonline.org/justice/index_pillar1.htm

Moldova

The National Action Plan to Prevent and Combat Trafficking in Human Beings was approved by Government Decision No. 903 of 25 August 2005 and published in Official Monitor No. 119-122/987 of 9 September 2005. The OSCE report *Trafficking in Human Beings in Moldova—Normative Acts* contains the National Action Plan. Visit www.osce.org/documents/mm/2006/06/19678_en.pdf

Myanmar

In March 2007, the Government of Myanmar, with the assistance of UNIAP, convened a national workshop of Government agencies, law enforcement officials, United Nations agencies, international and national non-governmental organizations and other anti-trafficking stakeholders to review the country's draft national plan of action. The proposed national plan of action (2007-2011), drafted in accordance with the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Subregional Plan of Action, requires Myanmar:

1. To implement effectively prevention, prosecution, protection and rehabilitation activities;
2. To strengthen activities among relevant ministries, organizations, national and international non-governmental organizations and the private sector;
3. To strengthen cooperation with regional and international agencies in combating transnational trafficking.

In response to these requirements, the proposed national plan of action contains five substantive areas: policy and cooperation; prevention; prosecution; protection; and capacity-building. The highly collaborative approach to the drafting of the national plan of action hopefully signifies that a similarly collaborative approach will be taken towards its implementation.

Further information about this process is available at:
http://uniap.law.pku.edu.cn/article/Details.asp?NewsId=864&Classid=-9&ClassName=

Netherlands

The Government of the Netherlands has adopted an Action Plan to Combat Human Trafficking.

Norway

The Government of Norway issued the action plan for the period 2006-2009, to stop trafficking in persons, both nationally and internationally. The plan contains 37 measures aimed at facilitating coordinated, coherent efforts to stop trafficking and assist and protect victims. The measures include extending the reflection period so that presumed victims may be granted a temporary work permit for up to six months, expanding the free legal counsel scheme and increasing the provision of free legal aid for victims of trafficking, providing assistance to ensure safe repatriation and resettlement for victims who wish to return to their country of origin. The plan of action is available at:
www.regjeringen.no/en/dep/jd/Documents-and-publications/Reports/Plans/2007/Stop-Human-Trafficking.html?id=458215

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 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/action_plans/14

The full version is available (in Thai) at:
www.no-trafficking.org/content/National_Plan/national_plan_thailand.htm

United Kingdom

In the United Kingdom Action Plan on Tackling Human Trafficking, the Home Office of the United Kingdom aims to balance protecting and assisting victims with law enforcement work that seeks to prevent the commission of crimes. The March 2007 Action Plan is available at:
www.homeoffice.gov.uk/documents/human-traffick-action-plan?version=1

Viet Nam

In July 2004, the Government of Viet Nam adopted a national action plan to prevent and combat trafficking in women and children for the period 2004-2010. The plan has several important dimensions:

- Advocacy and education in the community on the prevention of trafficking in women and children

- Action against traffickers of women and children, including law enforcement
- Support for women and children from other countries who are victims of traffickers
- Border control
- Strengthening of the legal framework

The action plan is available at:
http://no-trafficking.org/content/web/40national_plan/vietnam/vietnam_national_action_plan_english.doc

Tool 2.8 National anti-trafficking rapporteurs

Overview

This tool provides examples of anti-trafficking positions which have been created by States to coordinate responses to trafficking and facilitate cooperation, between agencies and internationally.

National Rapporteur on Trafficking in Human Beings (The Netherlands)

In response to the recommendation of an European Union ministerial conference on trafficking that national rapporteurs on human trafficking be appointed, the Bureau of the National Rapporteur on Trafficking in Human Beings was established in the Netherlands in April 2000. According to article 250*a* of the Criminal Code, the mandate of the National Rapporteur is to gather and disseminate information in order to highlight problems and offer solutions for combating trafficking in persons. The Rapporteur is required to present an annual report to the Government, which is compiled using far-reaching access to criminal files of the police and judicial authorities, and through the maintenance of cooperative relationships with international organizations.

The reports presented by the Rapporteur to the Government of the Netherlands contain information on regulations and legislation, as well as information on prevention, criminal investigations, prosecution and victim support. They also contain policy recommendations to strengthen the response of the Netherlands to trafficking. The Government is required to respond to the Rapporteur's reports in Parliament.

More information about the National Rapporteur of the Netherlands and all of the reports issued by her are available at:

www.bnrm.nl

Ambassador for International Cooperation against Trafficking in Human Beings (Sweden)

In consideration of the fact that trafficking in persons is a cross-cutting issue which has an impact on human rights, development cooperation, migration policy and security, the Government of Sweden has instated an Ambassador for International Cooperation against Trafficking in Human Beings to better coordinate the Government's response to trafficking and make the Swedish Ministry for Foreign Affairs and Sweden itself a more visible global partner against trafficking. The Ambassador has been appointed to work in a variety of international contexts, such as the United Nations, the European Union, the Baltic Sea States Subregional Cooperation, the Organization for Security and Cooperation in Europe and the Council of Europe. In doing so, it is hoped that the Ambassador will have an overview of anti-trafficking responses to ensure that Sweden does not duplicate efforts.

For more information about the Swedish Ambassador against Trafficking in Human Beings, visit:

www.manskligarattigheter.gov.se/extra/pod/?action=pod_show&id=43&module_instance=2

Ambassador-at-Large and Director of the Office to Monitor and Combat Trafficking in Persons (United States)

The United States Ambassador-at-Large and Director of the Office to Monitor and Combat Trafficking in Persons was appointed on 31 May 2007. The Ambassador-at-Large chairs the Senior Policy Operating Group – the senior management group of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons.

Source: www.state.gov/r/pa/ei/biog/84924.htm

Government Coordinator of the Battle against Trafficking in Persons in the Ministry of Justice (Israel)

The Government of Israel appointed an anti-trafficking Government Coordinator in May 2006. In its National Plan regarding the Battle against Slavery and Trafficking in Persons for the Purposes of Slavery or Forced Labour, the Committee of Directors General stated that the Government Coordinator should be required to report to the Government

periodically about the scope of the phenomenon in Israel and the steps the Government has taken in order to combat it.

For more information about the National Action Plan of Israel, see Tool 2.7.

Tool 2.9 Regional action plans and strategies

Overview

This tool refers to some promising examples of regional action plans and strategies to combat human trafficking.

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 is why many regional action plans have been prepared throughout the world. Many 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 also promote information sharing, the provision of education and vocational training and the launching of public awareness-raising campaigns.

Promising practice

Action Plan to Combat Trafficking in Women and Children (Asian Regional Initiative against Trafficking in Women and Children)

At the Asian Regional Initiative against Trafficking in Women and Children conference held 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 proposals for action in four strategic areas: prevention, protection, prosecution and reintegration. The website www.humantrafficking.org is one of the first tangible results of this action plan and helps participants exchange information and learn from each other's experience.

The action plan can be obtained at:
www.humantrafficking.org/events/88

Subregional Plan of Action

(Coordinated Mekong Ministerial Initiative against Trafficking)

COMMIT is a process led by the Governments of the six Greater Mekong Subregion countries. It is aimed at creating a sustained and effective system of cross-border cooperation and collaboration to combat trafficking in persons. Following the creation of COMMIT, the six Governments signed a subregional memorandum of understanding on human trafficking in Asia and the Pacific and have adopted a comprehensive and strategic Subregional Plan of Action to build a web of cooperative initiatives against trafficking in persons. UNIAP is the secretariat for COMMIT. COMMIT is governed by a Senior Officials Meeting which convenes annually. The Subregional Plan of Action focuses on activities which are regional and cross-border in nature and is intended to complement national responses. It is ultimately a system of cooperation which builds linkages between Governments, United Nations agencies and international and national non-governmental organization partners. The Plan of Action comprises 11 areas of intervention and one of management:

1. Regional training programme;
2. Identification of victims and apprehension of perpetrators;
3. National plans;
4. Multisectoral and bilateral partnership;
5. Legal frameworks;
6. Safe and timely repatriation;
7. Post-harm support and reintegration;
8. Extradition and mutual legal assistance;
9. Economic and social support for victims;
10. Addressing exploitative brokering practices;
11. Cooperation with the tourism sector;
12. Management: coordination, monitoring and evaluation.

A guidance document issued by the secretariat during the third Senior Officials Meeting and entitled "Principles and methods of working in the COMMIT process" serves as a common understanding among stakeholders.

The COMMIT Subregional Plan of Action can be found at:
http://no-trafficking.org/content/COMMIT_Process/COMMIT_background.html#05

OSCE Action Plan to Combat Trafficking in Human Beings (Organization for Security and Cooperation in Europe)

The OSCE Action Plan to Combat Trafficking in Human Beings 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 is intended to help participating States implement their commitments on combating trafficking and to provide them with a follow-up mechanism, which will also promote coordination between individual participating States and with other international organizations. The Action Plan adopts a multidimensional approach to combating trafficking in human beings. It addresses the problem comprehensively, covering the 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:

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

Charter of the Pacific Immigration Directors' Conference

The Pacific Immigration Directors' Conference is a forum for official immigration agencies of the Pacific region sponsored by the Pacific Islands Forum Secretariat. It is coordinated by a permanent secretariat based in Suva, Fiji and is intended to foster mutual cooperation and assistance to strengthen the integrity of borders in the Pacific region. According to its Charter (of September 2005), the vision of the Conference is to provide a focal point for communication, collaboration and cooperation among its members, with the aim of better managing migration flows and strengthening border management across the region, thereby contributing to improved social and economic well-being and security in the Pacific. The Conference aims:

- To encourage greater cooperation, communication and liaison between participating agencies, including the development and maintenance of communications between conferences
- To foster a coordinated approach to the implementation of any policies of Forum members having a regional focus
- To coordinate the exchange of technical assistance by and between participating member agencies
- To act as a focal point for collaboration with other regional and international bodies and organizations, such as the Pacific Islands Forum Secretariat, the Oceania Customs Organization, the South Pacific Islands Chiefs of Police Conference, INTERPOL, the International Air Transport Association (IATA), IOM and relevant United Nations agencies

The eleventh annual meeting of the Conference, which was held in Samoa in August 2007, addressed the theme of "Working together to strengthen regional security and prosperity through managed international people movements".

More information about the Pacific Immigration Directors' Conference is available at:

www.pidcsec.org

Plan of Action of the Regional Conference on Migration

The Regional Conference on Migration (informally known as the Puebla Process) is a multilateral regional forum on international migration. Its membership consists of all the Central American countries, Canada, the Dominican Republic, Mexico and the United States. 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 region 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 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:

www.rcmvs.org/plande.htm

Task Force on Trafficking in Human Beings

(Stability Pact for South-Eastern Europe)

The Stability Pact for South-Eastern Europe Task Force on Trafficking in Human Beings is an instrument of coordination to encourage and strengthen cooperation among the countries of South-Eastern Europe in order to streamline and accelerate efforts to combat human trafficking in the region. The Task Force was established in 2000 and seeks to encourage the development of anti-trafficking policies in South-Eastern Europe by raising the awareness of Governments regarding trafficking as both a law enforcement issue and a human rights concern. The Anti-Trafficking Task Force coordinates with other relevant regional initiatives, such as the Stability Pact Gender Task Force and the Stability Pact Initiative against Organized Crime. The 2001 Multiyear Anti-Trafficking Action Plan for South-Eastern Europe outlines a coordinated, multidisciplinary approach to combating trafficking.

The Multi-Year Anti-Trafficking Action Plan for South-Eastern Europe is available at:

www.stabilitypact.org/trafficking/atap-2001.doc

Action Plan on Cooperation in Combating Crime, in Particular in its Organized Forms (May 2007-April 2009)

(Black Sea Economic Cooperation Organization)

The Black Sea Economic Cooperation Organization was formed by 11 Governments in 1992 to foster peace, stability and prosperity among member States. Its most recent Action Plan on Cooperation in Combating Crime refers to the implementation of the Agreement among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organized Forms, and commits them to organizing a regional seminar and training on trafficking in persons, and to explore the possibility of enhancing cooperation with the South-East European Cooperative Initiative Regional Center for Combating Trans-Border Crime.

The Black Sea Economic Cooperation Action Plan on Cooperation in Combating Crime is available at:

www.bsec-organization.org/admin/Action%20Plan%20FINAL.pdf

Economic Community of West African States Declaration on the Fight against Trafficking in Persons

At the twenty-fifth Ordinary Session of Authority of Heads of State and Government of ECOWAS, held in Dakar on 20 and 21 December 2001, the Heads of State and

Government of ECOWAS signed the Declaration on the Fight against Trafficking in Persons and adopted the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) annexed to the Declaration.

(See also Tool 1.8).

The ECOWAS Initial Plan of Action sets out actions and implementing agencies in the areas of protection and support of victims, prevention and awareness-raising, collection, exchange and analysis of information, specialization and training, travel and identity documents, and monitoring and evaluation.

The Declaration is available at:
www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/ecowas/10POAHuTraf.pdf

More information about ECOWAS is available at:
www.ecowas.int

The UNODC training manual on the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) is available at:
www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Actions of the Association of Southeast Asian Nations to implement the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children

The ASEAN member States work together to translate the commitments made in the framework of the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children are translated into action. They have developed plans of action and work programmes to give effect to those commitments and are currently working together:

- To ensure that trafficking in persons is a crime in each ASEAN member country
- To ensure that national policies on trafficking are consistent within the ASEAN region
- To find ways for law enforcement officials to work together, bilaterally and multilaterally

- To arrange that law enforcement officials take part in joint training
- To develop a regional training programme about assistance for victims of trafficking

High-level cooperation takes place through the ASEAN Senior Officials Meeting on Transnational Crime.

Source: *ASEAN Responses to Trafficking in Persons: Ending Impunity for Traffickers and Securing Justice for Victims*, p. 4, available at:
www.artipproject.org/artip/14_links/Pubs/ASEAN%20Responses%20to%20TIP.pdf

Tool 2.10 Interregional action plans and strategies

Overview

Trafficking in persons that takes place between regions requires an interregional response. This tool refers to some promising practice in that regard.

Promising practice

Economic Community of West African States and Economic Community of Central African States

In July 2006, the member States of both the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS) adopted a bi-regional plan of action for the period 2006-2008. This bi-regional plan of action re-affirms the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) and extends efforts to combat trafficking into the Central African region. The ECOWAS Initial Plan outlined the most urgent actions against trafficking in persons to be taken by ECOWAS member States, with a focus on criminal justice responses. The new joint plan of action of ECOWAS and ECCAS member States is a response to the trafficking flows between the two subregions and is aimed at the establishment of joint objectives. The plan of action was adopted together with a declaration and a multilateral cooperation agreement.

The joint plan of action emphasizes the need for to protection of women and children against trafficking in West and Central Africa, focusing on the legal framework and on policy development. In this respect, it underlines that individual member States should ensure the ratification and efficient domestic implementation of international instruments.

The plan of action articulates seven clear strategies addressing: legal framework and policy development; victim assistance and protection; prevention and awareness-raising; collection

and analysis of information; training and specialized capacity-building; travel and identity documents; monitoring and evaluation of implementation.

The ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) is available at:

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

The Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa is available at:

www.ceeac-eccas.org/img/pdf/Multilateral_Agreement_Trafficking-1184251953.doc

More information about ECOWAS is available at:

www.ecowas.int

More information about ECCAS is available at:

www.ceeac-eccas.org

The UNODC training manual on the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) is available at:

www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children

(European Union and African States)

The first Ministerial Conference on Migration and Development between the European Union and the entire African continent was held in Tripoli in November 2006. It was

attended by ministers for foreign affairs, migration and development from both continents. The Ouagadougou Action Plan signed at that conference is concerned with:

- Prevention and awareness-raising
- Victim protection and assistance
- Legislative framework, policy development and law enforcement
- Cooperation and coordination

The Ouagadougou Action Plan is available at:
www.ec.europa.eu/justice_home/doc_centre/immigration/docs/OUAGADOUGOU.pdf

Action Plan to Combat against Trafficking in Persons, Especially Women and Children

(Asia-Europe Meeting)

The Asia-Europe Meeting (ASEM) is an informal dialogue process involving the member States of ASEAN and the European Union. At the third Asia-Europe Meeting of Ministers for Foreign Affairs, held in Beijing in May 2001, a joint plan of action against trafficking in women and children was welcomed. The plan focuses on prevention, protection and law enforcement, as well as on rehabilitation, return and reintegration of victims. This commitment has been restated at subsequent Asia-Europe Meetings of ministers.

More information about the Asia-Europe Meeting can be found at:
http://ec.europa.eu/external_relations/asem/intro/index.htm

Tool 2.11 An international initiative

Overview

This tool offers an example of a promising global initiative against trafficking in persons.

Global Initiative to Fight Human Trafficking

In March 2007, UNODC officially set in motion the Global Initiative to Fight Human Trafficking (UN.GIFT) with a grant made on behalf of the United Arab Emirates. UN.GIFT provides a framework for all stakeholders—Governments, businesses, academia, civil society and the media—so that they can support one other, work in partnership and create effective tools to fight trafficking in persons.

Mission statement

UN.GIFT is intended to mobilize State and non-State actors to eradicate human trafficking by:

1. Reducing both the vulnerability of potential victims and the demand for exploitation in all its forms;
2. Ensuring adequate protection and support to those who fall victim to trafficking;
3. Supporting the efficient prosecution of the criminals involved, while respecting the fundamental human rights of all persons.

In carrying out its mission, UN.GIFT will increase knowledge and awareness of human trafficking; promote effective rights-based responses; build the capacity of State and non-State actors; and foster partnerships for joint action against human trafficking.

Goals

The goals of UN.GIFT are to build awareness, broaden knowledge and step up technical assistance.

Awareness

The level of global knowledge and awareness of trafficking remains low, thereby increasing the vulnerability of potential victims. UN.GIFT seeks to secure a more innovative approach by strengthening partnerships and enlarging the role played by civil society and the private sector. Strong public-private partnerships and regional and topical networks can also help raise public awareness. The Vienna Forum, held in February 2008, provided an opportunity for sharing knowledge and best practices and strengthening partnerships.

Knowledge base

The most significant challenge facing UN.GIFT is the creation of a comprehensive knowledge base, the absence of which currently impedes efforts against trafficking. More data is needed on the extent of the crime, its geographical spread and the forms it takes. This research component of UN.GIFT is aimed at deepening understanding of trafficking in persons through better data collection, information analysis and sharing and joint research activities to strengthen efforts against the crime.

Technical assistance

States need better national capacity to fight human trafficking. Drawing on an expanded knowledge base, stakeholders are able to create and develop practical tools to prevent

trafficking, protect victims and bring criminals to justice. These tools include manuals for law enforcement agencies, judges, prosecutors and victim support groups, as well as draft legislation to assist national programmes and fact-sheets for use in raising awareness. A global human trafficking assessment tool will standardize methodology for collecting and analyzing national data on human trafficking. A legislative assessment tool is assisting the collection and analysis of best practices in anti-trafficking legislation.

Steering Committee

Mindful of the essential need for an approach that is collaborative and draws on a range of expertise, the Steering Committee of UN.GIFT comprises representatives of the six founding members of the Initiative:

International Labour Organization (ILO);

International Organization for Migration (IOM);

United Nations Children's Fund (UNICEF);

Office of the United Nations High Commissioner for Human Rights (OHCHR);

Organization for Security and Cooperation in Europe (OSCE)

United Nations Office on Drugs and Crime (UNODC)

and a representative of the Crown Prince of Abu Dhabi, the main donor.

The Steering Committee coordinates aims to create synergies and avoid duplication, to ensure the most efficient and effective delivery of UN.GIFT activities.

More information about UN.GIFT is available at:
www.ungift.org

Tool 2.12 Developing a multi-agency approach to intervention

Overview

This tool offers a checklist of the main steps involved in setting up a multi-agency framework and provides guidelines and resources for establishing formal inter-agency 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 in any initiative to combat it, to ensure that the needs of victims are met and law enforcement measures are supported.

Multi-agency collaboration is not easy; time and effort are required for it to work effectively. A management and operational framework therefore needs to be agreed on for steering and managing any subsequent specific initiative or intervention. This framework may be built on existing arrangements, where there are any.

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 working jointly
- 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.

Responsibilities of multi-agency groups

Multi-agency groups must essentially ensure that victims are supported while the law is enforced. Their responsibilities should include:

- Education and awareness-raising activities
- Ensuring that all relevant agencies and parties are informed and involved in decision-making and planning
- Joint training initiatives
- Developing appropriate working practice protocols
- Ensuring information exchange between statutory and non-governmental organizations
- Monitoring incidence rates and the impact of any local initiatives
- Developing local strategies and action plans

Where children are involved, child protection services must play a role in coordinating multi-agency initiatives on trafficking in a way that fits with strategic planning arrangements for children. It also may be appropriate for multi-agency groups addressing gender-based violence to have active responsibilities in trafficking-related issues.

Source: United Kingdom Home Office, Crime Reduction Toolkit on trafficking in people, available at:
www.crimereduction.gov.uk/toolkits/tp0507.htm

Formal cooperation mechanisms between law enforcement and non-governmental organizations

Cooperative agreements between State and non-State actors raise the rate of successful prosecution of traffickers. Formal protocols and memorandums of understanding between agencies provide a solid basis upon which to build this multi-agency collaboration.

As a matter of best practice, formal protocols should be drawn up 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.

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.

How such protocols should be worded is a matter for local agreement, depending upon local circumstances. However, the protocol should include a general joint statement of purpose in relation to combating human trafficking and set out the responsibilities of partners. 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

For additional information, see the United Kingdom Home Office Crime Reduction Toolkit on trafficking in people available at:
www.crimereduction.gov.uk/toolkits/tp00.htm

Components of a memorandum of understanding

Partners

Partners to the memorandum of understanding should be identified. Cooperation is enhanced where partners (e.g. special anti-trafficking units within the police force, specialized non-governmental organizations) are identified.

Defining purpose

The basic principles and the purpose of cooperation should be clarified.

Principles of cooperation

A key principle is agreement on a cooperative approach to combating human trafficking.

Target group

Specifying the precise target group to benefit from the memorandum of understanding will contribute to successful referral of trafficking victims. Criteria and means of identification can be based on the Trafficking in Persons Protocol.

Mutual communication of information

Parties to the memorandum of understanding should agree to treat the presumed trafficked person's personal data as confidential.

Entry into force and amendment

The memorandum of understanding comes into effect when all relevant parties have signed, and should be amended only on the basis of mutual consultation.

Detailed definition of different responsibilities

The definition of the different responsibilities of all partners goes hand in hand with transparent cooperation between governmental and non-governmental organizations.

Points to be incorporated

With respect to actions to be taken by law enforcement partners:

- A presumption that a person is a victim of trafficking if circumstances suggest that he or she may have been trafficked
- Informing the presumed trafficked person of the opportunity of access to support services
- Contracting the non-governmental organization cooperative partner immediately after the first questioning of the presumed trafficked person, whether or not the presumed trafficked person faces danger from traffickers

With respect to actions to be taken by non-governmental organizations and service institutions:

- The presumed trafficked person should be fully informed about the institution and its mandate, and receive any available information on the likely future course of legal proceedings.
- Accommodation and physical and psychological rehabilitation services should be made available.
- The institution should establish contact with the police where the presumed trafficked person takes an informal decision to cooperate with the criminal-prosecution authorities.
- Where the presumed trafficked person takes an informal decision to return to his/her country of origin, relevant social agencies should be contacted and details of the return organized.
- Where the presumed trafficked person is involved in legal proceedings, she/he should be supported by the arrangement of legal representation and by being accompanied during and after court proceedings.

Source: *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; A Practical Handbook* (Warsaw, OSCE, 2004), available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Recommended resource

UNDP and Civil Society Organizations: a Toolkit for Strengthening Partnerships

The United Nations Development Programme (UNDP) has published a toolkit aimed at strengthening the relationship between UNDP and civil society organizations. Chapters of the toolkit are devoted to defining civil society organizations, and a methodology for working collaboratively with them is presented. The toolkit also provides operational information for working with civil society organizations, including information on policy implementation, contracts, making grants and entering into partnership agreements. Though primarily designed for use by UNDP staff, the toolkit is a valuable resource for any individual or entity working with civil society organizations and for civil society organizations themselves.

The toolkit is available at:

www.undp.org/cso

Promising practice

Childoscope

The European Union Council of Ministers of Justice and Home Affairs adopted resolution on 27 September 2001 on the contribution of civil society in finding missing or sexually exploited children (2001/C 283/01). In so doing, it emphasized the need for enhanced co-operation between civil society organizations and law enforcement services in preventing and combating such crimes and called for further study to be conducted. Child Focus, the European Centre for Missing and Sexually Exploited Children, and the Institute for International Research on Criminal Policy joined together to conduct a three-part research project, entitled "Childoscope", aimed at promoting the integration of European policies and responses to missing and sexually exploited children.

One outcome of Childoscope has been research conducted on cooperation between civil society organizations and the law enforcement sector. A model protocol to facilitate their co-operation was drafted, with the intention that it could serve as a basis for establishing official relationships between civil society organizations and law enforcement authorities throughout European countries. The protocol reflects common European legal standards and general principles of codes of practice for both law enforcement and civil society organizations.

More information about Childoscope is available at:

www.childoscope.net

The European Model Protocol of cooperation between law enforcement and civil society organizations in cases of sexual exploitation is available at:

www.childoscope.net/2006/httpdocs/documents/Model%20Protocol.pdf

Tool 2.13 Developing inter-agency coordination mechanisms

Overview

This tool provides examples of inter-agency collaboration mechanisms.

Inter-agency collaboration is a prerequisite for the success of any national or local strategy to prevent and combat trafficking in persons. 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.

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 national or local strategy.

Recommended resource

Crime Reduction Toolkit

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

For a concrete example, one may consult the lists of the specific roles and responsibilities of various agencies 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 present some of the contributions that various agencies and groups may be able to make. 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.

These lists are contained in the toolkit developed by the United Kingdom Home Office, available at:

www.crimereduction.gov.uk/toolkits/tp05.htm

Promising practice

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

(Nigeria)

The Nigerian National Agency for the Prohibition of Traffic in Persons and Other Related Matters is the focal point of the Government of Nigeria 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' 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 and the Departments of Women Affairs and Social Welfare, as well as from the media. The Agency carries out joint operations with police and immigration units working to combat human trafficking. It also promotes national consultation for the development of a national action plan against human trafficking. In addition, the Agency is also providing liaison functions between Government agencies and non-governmental 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:
www.naptip.gov.ng

Interdepartmental Working Group on Trafficking in Persons (Canada)

The federal Interdepartmental Working Group on Trafficking in Persons is co-chaired by the Departments of Justice and Foreign Affairs and is composed of the following participating departments and agencies:

- Canada Border Services Agency
- Canadian Heritage
- Canadian International Development Agency
- Canadian Security Intelligence Service
- Citizenship and Immigration Canada
- Department of Justice Canada
- Foreign Affairs Canada
- Health Canada
- Human Resources and Skills Development Canada
- Indian and Northern Affairs Canada
- Passport Office
- Privy Council Office
- Public Safety and Emergency Preparedness Canada
- Royal Canadian Mounted Police
- Social Development Canada

- Statistics Canada
- Status of Women Canada

The Interdepartmental Working Group on Trafficking in Persons is tasked with coordinating federal activities to address trafficking, including the development, promotion and implementation of a comprehensive anti-trafficking strategy, in keeping with Canada's international commitments.

For more information about the Interdepartmental Working Group, visit:

http://canada.justice.gc.ca/en/fs/ht/iwgtip.html

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 its 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 investigate cases of trafficking and are an important partner in victim identification. The United States Immigration and Customs Enforcement awards the T visa and continued-presence status, which make a victim eligible for certification by the Department of Health and Human Services.

More information about the Task Force is available at:
www.acf.hhs.gov/trafficking

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

The Government of the United States has established the 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.

More information about the Worker Exploitation Task Force is available at:
www.usdoj.gov/crt/crim/tpwetf.htm

United Kingdom Human Trafficking Centre (United Kingdom)

The United Kingdom Human Trafficking Centre is a multi-agency centre that provides a central point for the development of expertise and operational coordination in relation to the trafficking of human beings, working together with other agencies in the United Kingdom and abroad.

The Centre plays a key role in coordinating work across stakeholders and delivers a diverse set of programmes, including targeted campaigns to prevent and reduce the trafficking of human beings. The Centre also conducts research, develops training packages for United Kingdom law enforcement partners, disseminates good practice and works to deliver improved knowledge and understanding of the way criminal enterprises associated with human trafficking operate. The Centre continuously develops police and law enforcement expertise and provides operational coordination in relation to trafficking, complementing the work of the Serious Organised Crime Agency. The Centre promotes the development of a victim-centred human rights-based approach to trafficking. It works with non-governmental organizations and other partners to improve the standard of victim care and protection and raise understanding of the complexities involved in dealing with the welfare of victims of trafficking in both the criminal justice and the wider protection environment.

More information about the United Kingdom Human Trafficking Centre is available at:

www.ukhtc.org

Human Smuggling and Human Trafficking Center (United States)

The Human Smuggling and Human Trafficking Center was established under section 7202 of the Intelligence Report and Terrorism Prevention Act of 2004. The Center is an interagency initiative aimed at disseminating information and preparing strategic assessments. It brings together the law enforcement, intelligence and diplomatic communities to work together to take action against criminals who move people around the world for profit or exploitation, or in support of terrorism. The Center aims to increase the integration and overall effectiveness of the enforcement and other response efforts of the Government of the United States and also works with other Governments. The Center provides a mechanism for bringing federal agency representatives from the policy, law enforcement, intelligence and diplomatic areas to work together on a full-time basis to achieve increased effectiveness and to convert intelligence into effective law enforcement and other action.

More information about the Human Smuggling and Human Trafficking Center is available at:

www.state.gov/p/inl/c14079.htm

Operational Anti-Trafficking in Persons Centre (Colombia)

Colombia has an inter-institutional committee composed of 14 national public institutions working together against trafficking in persons. Furthermore, in every law enforcement

agency there is a specialized unit against trafficking and in every welfare and human rights institution there is a division addressing trafficking in persons.

This integrated approach demonstrates the political and institutional will of Colombia, which ratified the Trafficking in Persons Protocol in 2003. UNODC supports and advises the Government of Colombia with regard to various aspects of trafficking. Recently, an Operational Anti-Trafficking in Persons Centre (COAT) was designed under a UNODC project, to coordinate investigation, prosecution and victim assistance as part of the national anti-trafficking strategy of Colombia.

United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion

UNIAP was established in June 2000 to facilitate a stronger and more coordinated response to human trafficking in the countries of that subregion (Cambodia, China, Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam). At a regional level, UNIAP brings together the six Governments of the subregion, United Nations agencies, international organizations and international non-governmental organizations. The UNIAP Regional Office is based in Bangkok. It manages the country programmes with guidance provided by an intergovernmental project steering committee that meets annually. The Resident Coordinator of the United Nations in Thailand is the principal project representative.

More information on the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Subregion is available at:
www.no-trafficking.org

Tool 2.14 Capacity-building and training

Overview

This tool provides references to training programmes and materials. For more training materials, refer also to Tool 9.18.

Capacity-building measures should be built on:

- Prior assessment of the situation
- Clear delineation of the role of various agencies
- Understanding of existing knowledge and expertise
- 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, and also stipulates:

> 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.

Key principles of training and capacity-building

- Capacity-building measures and training curricula should only be built on a prior assessment of the situation.
- The approach should foster a clear understanding among stakeholders of gaps and areas for improvement. This can only be achieved where stakeholders themselves are involved in the assessment and contribute to the planning of training.
- As far as possible, local or regional organizations should be given priority in capacity-building or training efforts since they are likely to be more sensitive to domestic needs. International actors should play a steadily declining advisory role while Government, law enforcement and civil society actors build up their capacity.

National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; A Practical Handbook (Warsaw, OSCE, 2004), contains useful checklists for assessing training needs and determining content, as well as a suggested capacity-building module. The handbook is available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Recommended resources

Training manual on the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003)

(United Nations Office on Drugs and Crime)

The training manual on the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) 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:
www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Anti-Trafficking Training for Front-line Law Enforcement Officers (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. This *Anti-Trafficking Training for Frontline Law Enforcement Officers* has been developed with the objective of raising awareness of trafficking in persons as a serious crime and a human rights violation, and of enhancing the capability and skills of non-specialized police and border personnel to identify and properly treat trafficking victims. The material comprises a training guide and a complementary background reader.

The training guide and background reader can be consulted at the Centre's website:
www.anti-trafficking.net

Law enforcement training manuals (United Nations Development Programme, Romania)

The UNDP *Law Enforcement Manual for Fighting against Trafficking in Human Beings* is 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:
www.undp.ro/governance/Best%20Practice%20Manuals

Training Manual for Combating Trafficking in Women and Children

An outcome of a training exercise that took place in Myanmar, the *Training Manual for Combating Trafficking in Women and Children* was developed as part of UNIAP, in

cooperation with Save the Children (UK) and IOM. There is a focus in the training manual on issues of return and reintegration.

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

Training Manual on Trafficking in Human Beings in Peace Support Operations

(United Nations Interregional Crime and Justice Research Institute)

UNICRI delivered pre-deployment and in-service training to international law-enforcement personnel from the European Union and other countries. The training was delivered in three-day seminars and targeted to police officers in peace support missions in South-Eastern Europe.

More information on the manual developed for this training and revised on the basis of it is available at:
www.unicri.it/wwd/trafficking/peacekeeping/index.php

Crime Reduction Toolkit on trafficking of people

(United Kingdom)

The Policing Organised Crime Unit of the United Kingdom Home Office established an online crime reduction toolkit as a practical measure to address trafficking in the United Kingdom. The toolkit is intended for use by the police, immigration officials, prosecutors, victim support and social services, local authorities, non-governmental organizations and other agencies that come into contact with human trafficking issues.

The Toolkit is available at:
www.crimereduction.gov.uk/toolkits/tp00.htm

Toolkit to Combat Trafficking in Persons in Ecuador

(The American Bar Association's Latin American and Caribbean Law Initiative Council)

The American Bar Association's Latin American and Caribbean Law Initiative Council through its project to combat trafficking in persons in Ecuador developed a toolkit containing strategic examples. This toolkit (available only in Spanish) contains basic information relevant to undertaking anti-trafficking work in Spanish-speaking countries.

Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking

(International Organization for Migration)

This 2006 resource book is the result of an IOM training programme for law enforcement authorities implemented in Vienna. It contains good practices, recommendations and techniques for combating child trafficking based on the inputs of experts from the law enforcement and medical science fields and from civil society. The resource elaborates good practices on:

- Age assessment/identification of child victims
- Investigative methods
- Interview techniques
- Cooperation between law enforcement authorities and non-governmental organizations/social service providers

The resource book is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=5787

e-learning human trafficking modules

(United Nations Office on Drugs and Crime)

The United Nations Office on Drugs and Crime received the UN21 Award for its high-quality and effective delivery of law enforcement training in more than 50 countries in over 20 languages through its system of e-learning. Computer-based training is a form of e-learning involving training presented on interactive CD-ROMs and lessons delivered via interactive television. In this way, students who are located in remote areas throughout the world can learn practical skills at their own pace.

The training packages have been designed to enable law enforcement officials to enhance their skills, knowledge and awareness at their own pace and in their own language, using state-of-the-art interactive computer-based law enforcement training packages. Programmes are tailored for domestic legal circumstances, but also emphasize the regional and global impact of transnational organized crime.

A training module on human trafficking has been designed for law enforcement personnel with the overall objective of providing them with a basic understanding of human trafficking to enable them to better detect and respond to the crime.

A demonstration of the human trafficking module is available at:
www.unodc-elearning.org/index.php?option=com_wrapper&Itemid=43

The UNODC e-learning site is at:
www.unodc-elearning.org

Combating Trafficking in Children for Sexual Purposes: a Training Guide (ECPAT)

The Europe Law Enforcement Group of ECPAT, a network of organizations and individuals working to eliminate the commercial sexual exploitation of children, in the framework of its Programme against Trafficking in Children for Sexual Purposes in Europe and in cooperation with ECPAT International, has developed this detailed training guide for use by trainers of professional multi-stakeholder groups consisting of law enforcement personnel, social workers and caregivers. The training guide offers background information on necessary training skills and on how to develop an effective training programme. It also contains a 10-session training course on child-related trafficking, including background on the issue, definitions of both children and child trafficking, legal contexts, protection and assistance, roles of stakeholders and evaluation. The training sessions are complete with worksheet handouts, fact sheets and case studies.

This training guide is available at:
www.ecpat.net/eng/pdf/Trafficking_Report.pdf

Human Rights and Humanitarian Law in Professional Policing Concepts (International Committee of the Red Cross)

This International Committee of the Red Cross brochure addresses the principles of humanitarian law and human rights law in the context of law enforcement. Many aspects raised are relevant to the training of law enforcement officials in relation to trafficking of persons.

This brochure is available in English, French, Portuguese, Russian and Spanish at:

www.icrc.org/web/eng/siteeng0.nsf/html/p0809

chapter 3

LEGISLATIVE FRAMEWORK

The lack of specific legislation on trafficking in persons and/or the inadequacy of existing anti-trafficking legislation has been identified as one of the major obstacles to combating trafficking effectively. Tool 3.1 discusses the need for States to implement legislation at the national level in order for there to be universal, harmonized understanding of and response to trafficking.

Tool 3.2 discusses the requirement of criminalization of the offence of trafficking, as prescribed by article 5 of the Trafficking in Persons Protocol, and provides examples of State efforts to respond to this requirement. Where trafficking is not criminalized per se, other offences are often relied upon to prosecute traffickers; this is discussed in Tool 3.3. Tool 3.4 discusses the provisions of article 10 of the Organized Crime Convention, which requires the establishment of criminal liability of legal persons for participation in serious crimes, including trafficking in persons.

In order for anti-trafficking strategies to be comprehensive, the laundering of proceeds of trafficking must also be criminalized in domestic legislation; this is discussed in Tool 3.5.

Lastly, Tool 3.6 discusses the paramount consideration of adherence to human rights in all legislative responses to trafficking in persons and provides resources which can facilitate this adherence.

Tool 3.1 The need for anti-trafficking legislation
Tool 3.2 Criminalization of the offence of trafficking
Tool 3.3 Other offences related to trafficking in persons
Tool 3.4 Liability of legal persons
Tool 3.5 Criminalizing the laundering of proceeds of trafficking in persons
Tool 3.6 Human rights and anti-trafficking legislation

Tool 3.1 The need for anti-trafficking legislation

Overview

This tool explains the need for specific anti-trafficking legislation at the national level in order to combat trafficking in persons effectively.

Recommended Principles and Guidelines on Human Rights and Human Trafficking; report of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1) (also see Tool 3.6)

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.

A comprehensive national strategy to respond to the problem of trafficking in persons requires a coherent and comprehensive response to human trafficking under national law.

Achieving an appropriate legal framework requires:

- Legislative reforms to bring national legislation into compliance with international human rights standards
- Ensuring that the offence of trafficking is created in domestic criminal law
- The criminalization of other offences related to trafficking in persons
- A review of the provisions of national law with respect to the liability of legal persons
- A review of immigration and other relevant legislation to ensure that the definition of "trafficking in persons" is incorporated and that it facilitates the development of a coherent and comprehensive response to human trafficking under domestic law.

Recommended resource

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

UNODC has developed legislative guides to facilitate the incorporation of the Organized Crime Convention and its Protocols in the domestic legislation of States parties.

These guides can be consulted at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

UNODC is working on a model law to combat trafficking in persons. For more information please contact:
AHTU@unodc.org

Tool 3.2 Criminalization of the offence of trafficking

Overview

This tool explains the criminalization requirements under article 5 of the Trafficking in Persons Protocol and provides examples drawn from national legislation.

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 in article 3, paragraph 4 of the Protocol, regardless of whether it is transnational or involves an organized crime group.

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 offences underlying human trafficking; human trafficking needs to be criminalized as such. In addition to the criminalization of trafficking, the Trafficking in Persons Protocol requires criminalization also of:

- Attempts to commit a trafficking offence
- Participation as an accomplice in such an offence
- Organizing or directing others to commit trafficking

National legislation should adopt the broad definition of trafficking prescribed in the Protocol. The legislative definition should be dynamic and flexible so as to empower the legislative framework to respond effectively to trafficking which:

- Occurs both across borders and within a country. (*Inadequate definitions only address cross-border trafficking.*)
- Is for a range of exploitative purposes. (*Inadequate definitions only address sexual exploitation, neglecting trafficking for labour exploitation and other forms of exploitation.*)
- Victimizes children, women and men. (*Inadequate definitions do not extend to adult victims of trafficking, or are not sufficiently comprehensive to protect child victims, or do not extend to male victims of trafficking.*)
- Takes place with or without the involvement of organized crime groups.

Checklist: Criminalization under the Protocol

Article 3 *(a)* of the Trafficking in Persons Protocol sets out the following elements:

(a) Acts (what is done)
- (i) Recruitment
- (ii) Transportation
- (iii) Transfer
- (iv) Harbouring
- (v) Receipt of persons

(b) Means (how it is done)
- (i) Use of force
- (ii) Threat of the use of force
- (iii) Other forms of coercion
- (iv) Abduction
- (v) Fraud
- (vi) Deception
- (vii) Abuse of power or of a position of vulnerability
- (viii) Giving or receiving payments or benefits to achieve the consent of a person having control over another

(c) Purpose (why it is done)
- (i) Prostitution
- (ii) Other forms of sexual exploitation
- (iii) Forced labour or services
- (iv) Slavery
- (v) Practices similar to slavery
- (vi) Servitude
- (vii) Removal of organs

Recommended resources

Anti-Trafficking Assessment Tool

(UNODC Regional Centre for East Asia and the Pacific in collaboration with the United Nations Interagency Project on Human Trafficking in the Greater Mekong Subregion (UNIAP))

This tool, designed by the UNODC Regional Centre for East Asia and the Pacific and UNIAP provides checklists for use by non-legal researchers in rapidly assessing domestic legislation in relation to the requirements of the Trafficking in Persons Protocol and the Organized Crime Convention.

The Anti-Trafficking Assessment Tool is available at:
www.unodc.un.or.th/material/document/TraffickingChecklist.pdf

Bali Process Model Laws to Criminalize People Trafficking

As part of the Bali Process (see Tool 4.9), model trafficking legislation has been developed to assist States in meeting their legislative obligations under the Organized Crime Convention and the Trafficking in Persons Protocol. The model legislation is focused primarily on the prosecution of traffickers rather than the protection of victims, and therefore does not fulfil all the obligations contained in the Protocol. It may, however, be a useful starting point for States wishing to legislate against the crime of trafficking.

This model legislation and other resources are available at:
www.baliprocess.net/index.asp?PageID=2145831427

Pacific regional model law (Pacific Island Forum Secretariat)

The Pacific Island Forum Secretariat is finalizing a model law to combat human trafficking. The model law, entitled "Counter-terrorism and transnational organized crime bill 2007" is being prepared by the Forum Secretariat's Legal Drafting Unit. The model law is intended to be adaptable to the domestic circumstances of each Pacific island member of the Forum and is meant to complement the other model legislation prepared by the Secretariat (for example, on mutual assistance and extradition). Procedures under this model law have been designed to take into account the limited resources of small island States.

This model law will be made available to Pacific island countries. More information can be obtained at:
www.forumsec.org and www.pidcsec.org

Model Anti-Trafficking Statute

The United States Department of Justice has drawn up a model anti-trafficking statute. The model statute is intended primarily for use in the context of the United States, but can offer guidance to other States legislating against trafficking, to ensure that the definition of trafficking contained in the Trafficking in Persons Protocol is adequately reflected in domestic legislation.

The model statute is available at:
www.usdoj.gov/olp/pdf/model_state_regulation.pdf

State Model Law on Protection for Victims of Human Trafficking (Global Rights)

In 2005, Global Rights published a guide for States legislating against trafficking. It is modelled heavily on the United States Federal Victims of Trafficking and Violence Protection Act 2000 but may be useful for States which wish to ensure that legislative responses at the local level are in line with national legislation.

The guide is available at:
www.globalrights.org/site/DocServer/StateModelLaw_9.05.pdf?docID=3123

Legislationline (Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe)

Legislationline is a free internet-based legislative database published and maintained by the OSCE Office for Democratic Institutions and Human Rights. Its purpose is to assist law-makers in OSCE participating States by providing them with sample domestic legislation and international standards on selected issues. The database is intended to be a tool, not an exhaustive archive. Legislation can be accessed via country and thematic scroll-down menus which users can refer to when drafting legislation in their own domestic context. Legislationline contains legislation in all the official OSCE languages. The site also contains links to international treaties, conventions and an extensive collection of European and domestic norms, documents, conventions and other relevant materials.

www.legislationline.org

Promising practice

Australia

In 2005, Australia amended its Criminal Code Act 1995 to provide for offences relating to trafficking in persons. The Criminal Code Amendment (Trafficking in Persons Offences) Act 2005 No. 96 is available at:
www.austlii.edu.au/au/legis/cth/num_act/ccaipoa2005473/

Belize

In force since 2003, the Trafficking in Persons (Prohibition) Act criminalizes human trafficking in domestic law for the first time and seeks to give effect to the Trafficking in Persons Protocol.

Canada

Canadian Bill C-49 was enacted on 25 November 2005. This bill added sections 279.01 to 279.04 to the Canadian Criminal Code to create three new offences relating to trafficking in persons. In addition to the Criminal Code, section 118 of the Immigration and Refugee Protection Act explicitly prohibits trafficking. More information about the anti-trafficking legislative framework of Canada is available at:
www.parl.gc.ca/information/library/PRBpubs/prb0624-e.htm#bdomestic

Colombia

Colombian Law 985/2005 was drafted with the support of UNODC. Of particular importance is an amendment to article 188A of Law 599/2000 to harmonize the Criminal Code with the definition of human trafficking contained in article 3 of the Trafficking in Persons Protocol. Article 3 of Colombian Law No. 985/2005 reads:

> *Article 3. Human trafficking.* Article 188A of Law 599 of 2000, supplemented by Law 747 of 2002 and amended by Law 890 of 2004, will be as follows:
>
> > *Article 188 A. Human Trafficking.* He who captures, transports, accommodates or receives a person, within the national territory or towards another country, for purposes of exploitation, will incur a prison sentence of thirteen (13) to twenty-three (23) years and a fine of eight hundred (800) to one thousand five hundred (1,500) current minimum monthly legal salaries.
> >
> > For the purposes of this article, by exploitation will be understood the obtainment of economic or any other type of benefit for oneself or others, through the exploitation of prostitution or other forms of sexual exploitation, forced work or service, slavery or practices similar to slavery, the exploitation of the begging of others, servile matrimony, the extraction of organs, sexual tourism or other forms of exploitation.
> >
> > The consent given by the victim to any form of exploitation defined in this article will not constitute a cause for exoneration from penal responsibility.

Law 985/2005 also lays down provisions concerning the Inter-institutional Committee for the Fight against Trafficking in Persons and establishes the National Anti-trafficking Strategy as public policy. In addition, the law establishes administrative measures to implement the

National Strategy (based on recommendations submitted by UNODC and the Ministry of the Interior and Justice) and introduces an amendment with regard to the crime of trafficking to make it easier to prosecute traffickers; as a result of this amendment it is no longer necessary to obtain consent from adult or child victims to proceed with penal action, prosecution and punishment. The law contains key sections on prevention, victim protection and assistance, strengthening actions against trafficking in persons, the Inter-institutional Committee for the Fight against Trafficking in Persons, as well as on a national information system to combat trafficking to assist with policy formation and the monitoring of its implementation.

Costa Rica

Article 172 on trafficking in persons of Law No. 7899 against the Sexual Exploitation of Children and article 7 of the Costa Rican Criminal Code prohibit trafficking in persons.

Croatia

The Criminal Code of Croatia was amended in October 2004 to criminalize trafficking, the definition of which goes beyond that provided in the Trafficking in Persons Protocol to not only penalize traffickers, but also clients of trafficked persons if they knew the victims had been trafficked.

Czech Republic

The Criminal Code of the Czech Republic was amended in November 2004 to expand the definition of trafficking to encompass all forms of trafficking, including the exploitation of labour, and internal trafficking.

Denmark

Section 262 a of the Danish Penal Code explicitly criminalizes human trafficking. It reads: "a person who by an act of recruiting, transporting, transferring, housing or subsequently receiving another person shall be guilty of trafficking in human beings and shall be liable to a term of imprisonment of no more than eight years".

El Salvador

Legislative Decree 456 of 7 October 2004 contains article 367-B, which states that

> He who acts by himself or as a member of a national or international organization with the purpose of obtaining an economic profit, recruits, transports, transfers, harbours or intercepts people in or out of the national territory to carry out any kind of sexual exploitation, submit them to forced labour or services, any practice similar to slavery or for organ extraction, fraudulent adoptions or forced marriages will be sentenced to from four to eight years in prison.

Gambia

The Trafficking in Persons Bill 2007 was enacted by the National Assembly of Gambia on 6 September 2007. The Act establishes the National Agency against Trafficking in Persons, which will be responsible for the administration and monitoring of implementation of the

Act. It establishes a minimum of 15 years in jail or a life term, in addition to a fine, on conviction for the offence of trafficking.

Georgia

Amendments made to the Georgian Criminal Code in 2006 have increased the sanctions for the offence of trafficking. Both trafficking of adults and of children is addressed by the Code, which draws no distinction between trafficking for sexual or labour exploitation. The Criminal Code exempts victims of trafficking from criminal liability for illegal border crossings (art. 344) and for involvement with forged documents (art. 362).

In addition to these amendments to the Georgian Criminal Code, Parliament adopted the Law on Combating Trafficking in Persons in June 2006, based on international standards. The Law creates a State fund for victim protection and assistance, elaborates on shelter standards and creates the Coordination Council for Combating Trafficking in Persons. The Law also discusses the creation of a database of trafficking information and the creation of standards and rules for victim identification.

More information about these legislative efforts is available at:
www.stopvaw.org/Measures_and_Actions_Taken_by_Georgia_against_Trafficking_in_Persons_-_2006.html

Guatemala

Article 194 of the Penal Code, on trafficking in persons, as amended by Decree No. 14-2005 of the Congress of the Republic on 3 February 2005 states:

> Those who, using any means, induce, promote, facilitate, finance, collaborate in or participate in the seizure, transportation, transfer, harbouring or receiving of one or more persons by means of threats, the use of force or other forms of coercion, kidnapping, fraud, deceit, abuse of power, plagiarism, abduction or any situation of vulnerability or in which payments or benefits are made or accepted to obtain the consent of or a person with authority over another for the purposes of exploitation, prostitution, pornography or any other form of sexual exploitation will be punished with a sentence of from six to twelve years of imprisonment.

Various circumstances are cited which increase the applicable penalty.

Israel

In 2006, Israel amended its trafficking legislation to cover all forms of trafficking. The Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766-2006 of 29 October 2006 defines trafficking as "transaction in persons" and adds article 377A, Trafficking in persons, to the Penal Law:

> Anyone who carries on a transaction in a person for one of the following purposes or in so acting places the person in danger of one of the following, shall be liable to sixteen years' imprisonment:
>
> 1. Removing an organ from the person's body;
> 2. Giving birth to a child and taking the child away;

3. Subjecting the person to slavery;
4. Subjecting the person to forced labour;
5. Instigating the person to commit an act of prostitution;
6. Instigating the person to take part in an obscene publication or obscene display;
7. Committing a sexual offence against the person.

The Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766-2006 is available at:
www.hotline.org.il/english/pdf/Trafficking_in_Persons_Law_eng.pdf

Italy

In 2003, the Italian Parliament approved Law No. 228 entitled "Measures against trafficking in human beings", amending articles 600 to 602 of the Criminal Code. New article 601 of the Criminal Code defines trafficking in human beings as follows:

> Whosoever commits trafficking in persons who are in the conditions referred to in article 600 or, with the aim of committing crimes referred to in the first paragraph of the same article, induces any of the aforesaid persons through deception, or forces such person through violence, threats, abuse of authority or by profiting from a situation of physical or psychological inferiority or from a situation of necessity, or by promising or giving sums of money or other advantages to those having authority over the person, to enter, to stay in or to leave the territory of the State or to migrate within it, is subject to punishment by a prison sentence of between eight and twenty years.
>
> The sentence is increased by one third to one half if the offences referred to in the first paragraph are committed against minors under 18 years or for the exploitation of prostitution or the purposes of organ removal.

Available at:
www.unicri.it/wwd/trafficking/nigeria/docs/dr_italy_eng.pdf

Jamaica

In 2007, the Jamaican Senate passed the Trafficking in Persons Act of 2007 in order to give domestic effect to the Trafficking in Persons Protocol. The Act came into effect in March 2007 and is particularly intended to protect the rights of children.

Kosovo

Section 2.1 of UNMIK Regulation No. 2001/4 on the Prohibition of Trafficking in Persons in Kosovo states: "Any person 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 attempts to commit trafficking. The law further criminalizes the organization of a group of persons for the purpose of committing trafficking and facilitation of the commission of trafficking by negligence (sects. 2.3 and 2.4).

Regulation No. 2001/4 on the Prohibition of Trafficking in Persons in Kosovo is available at:
www.antitrafficking-kosovo.org/en/pdf/Attachment2.pdf

Kyrgyzstan

Until August 2003, the Criminal Code of Kyrgyzstan prohibited the purchase or sale of children and the recruitment of people for sexual or other types of exploitation. In August 2003, article 124 of that Criminal Code was amended to provide for a specific offence of trade in humans, which generally follows the definition of trafficking in persons contained in the Trafficking in Persons Protocol. Additionally, new article 346-1 of the Code, which criminalizes the organization of illegal migration, can also be used to prosecute traffickers. In 2005, the Law on Prevention and Combating Trafficking in Persons was adopted; it criminalizes human trafficking for both sexual exploitation and forced labour.

Lao People's Democratic Republic

In the Lao People's Democratic Republic, the Law on Development and Protection of Women was enacted in October 2004, making the trafficking of women or children an offence. In addition, the Penal Code contains a general offence of trading in persons, which applies regardless of the sex of the victim. In the light of the fact that the Code previously did not define "trade", the Government of the Lao People's Democratic Republic presented a revised draft of the Code to Parliament, attaching the trafficking definition from the Trafficking in Persons Protocol to the Penal Code. The Law on Development and Protection of Women and the relevant sections of the Lao Penal Code are available at: www.no-trafficking.org/content/laws_agreement/lao%20pdr.htm

Mexico

On 2 October 2007, the Mexican Congress passed legislation to increase the capacity of the Mexican courts and police to combat trafficking in persons.

Moldova

Although the Moldovan Parliament only ratified the Organized Crime Convention and the Trafficking in Persons Protocol in 2005, the Criminal Code and the Criminal Procedure Code of Moldova have included human trafficking as a distinct criminal offence since July 2003. In September 2005, the revised National Plan of Action to Prevent and Combat Trafficking in Human Beings entered into force and three months later, in December 2005, the Law to Prevent and Combat Trafficking in Human Beings was also enacted. The law is aligned with obligations under the Trafficking in Persons Protocol and provides a strong normative basis for setting standards concerning protection services for victims. The OSCE report *Trafficking in Human Beings in Moldova – Normative Acts* contains the text of Law. It is available at: www.osce.org/documents/mm/2006/06/19678_en.pdf

Mozambique

In July 2007, the Government of Mozambique approved a new law which criminalizes the offence of human trafficking and attaches long sentences to its commission.

Myanmar

The Union of Myanmar State Peace and Development Council Law No. 5/2005 (Anti-Trafficking in Persons Law) addresses trafficking in persons.

Netherlands

After the ratification by the Netherlands of the Trafficking in Persons Protocol, the Criminal Code of the Netherlands was amended such that section 273*a* of the Criminal Code extends the trafficking definition to all forms of exploitation, including forced labour.

Nigeria

Prior to the ratification of the Organized Crime Convention and the Trafficking in Persons Protocol and the 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, 2003 was adopted. The Act effectively criminalizes human trafficking to reflect the definition contained in the Trafficking in Persons Protocol. This Act was amended in December 2005 to increase penalties for traffickers.

The Act can be found at:
www.naptip.gov.ng/infocent.htm

Pakistan

The Prevention and Control of Human Trafficking Ordinance, 2002, which is aimed at preventing and combating human trafficking, defines human trafficking as:

> "obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of or into Pakistan by any means whatsoever".

The Ordinance is available at:
www.fia.gov.pk/pchto2002.htm

Peru

In January 2007, the Peruvian Congress passed Law 28950 on trafficking in persons. The law criminalizes all forms of trafficking and attaches adequately severe penalties to them, in accordance with the Trafficking in Persons Protocol. Law 28950 is available (in Spanish) at:
www.mininter.gob.pe/cnddhh/pdfs/LEY%2028950.pdf

Sierra Leone

The President of Sierra Leone signed the Anti-Human Trafficking Act on 12 August 2005. The Act defines human trafficking as an offence, criminalizes trafficking in persons in all its forms and renders consent and a victim's past sexual behaviour irrelevant.

The Act is available at:
www.sierra-leone.org/Laws/2005-7p.pdf

Russian Federation

Federal Law No. 162-ФЗ "On introducing changes and additions to the Criminal Code of the Russian Federation" entered into effect in Russia on 16 December 2003. With the adoption of this law, the term "trafficking in persons" was given legal definition.

According to the Criminal Code as amended by this Law, trafficking in persons is "the buying and selling of a person or other actions committed for the purpose of his exploitation in the form of recruitment, transportation, transfer, harbouring or receipt". The Law differentiates the criminal liability for trafficking in persons; depending on the gravity of the crime (committed with regard to two or more persons, with the use or threat of force, etc.), the punishment might be up to 15 years of imprisonment.

The amended Criminal Code envisages criminal liability for trafficking in persons (art. 127-1), the use of slave labour (art. 127-2), the involvement of minors in engaging in prostitution (art. 240, para. 3), the organization of engaging in prostitution (art. 241) and the manufacture and distribution of materials or objects with pornographic depictions of minors (art. 242-1).

More information about the legislative response of the Russian Federation to human trafficking is available at:
http://no2slavery.ru/eng/facts_and_documents/r_legislation/

Tajikistan

Previously, laws in Tajikistan only criminalized the recruitment of people for exploitation and involving of people in prostitution through violence, threats or fraud. In August 2003, Tajikistan adopted comprehensive legislation in accordance with the trafficking definition contained in the Trafficking in Persons Protocol. This involved amending the Criminal Code of Tajikistan to specifically criminalize the offence of trafficking.

The legislation is available at:
www.legislationline.org/upload/legislations/6e/57/156afe39fcc820af8679ffecd1c4.pdf

United Arab Emirates

In the United Arab Emirates, a comprehensive anti-trafficking law was passed on 11 November 2006. The law imposes high penalties of up to life imprisonment for human trafficking, which it defines as recruiting, moving, deporting or hosting individuals through the use of threat, force, deception or enticement with the aim of exploitation. Although there have not been prosecutions under this law as yet, training has been conducted for investigating officers and the Committee to Combat Human Trafficking has been established.

United States

The United States Code, as amended by the Victims of Trafficking and Violence Protection Act of 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 labour 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, no force, fraud or coercion is 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 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 leads to imprisonment for up to a maximum of 20 years in the 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.

The Victims of Trafficking and Violence Protection Act 2000 is available at:
www.state.gov/g/tip/laws/

Tool 3.3 Other offences related to trafficking in persons

Overview

This tool discusses the criminal acts related to trafficking in persons.

Many States have also criminalized much of the conduct 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 involved in trafficking.

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 location. 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 proceeds of crime.

During the trafficking 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 further understanding of 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: the recruitment, transportation and illegal entry of the trafficked person, the exploitation phase or the subsequent phase of profit laundering. The number and types of offence are often contingent upon the sophistication of the smuggling and trafficking operation and the criminal groups involved. The table below shows the various offences that can be perpetrated at different stages of the trafficking process and indicates whether the “victim” is the State or the trafficked individual.

Offences committed at various stages of the trafficking in persons process, and other related crimes			
Recruitment	**Transportation and entry**	**Exploitation**	**Other offences**
Document forgery	Document forgery	*Unlawful coercion*	Money-laundering
Fraudulent promises	Immigration law abuse	*Threats*	Tax evasion
Kidnapping	Corruption of officials	*Extortion*	Corruption of officials
False consent of the parent or guardian of a child	Damage to property	*False imprisonment*	Intimidation or subversion of officials
Recruitment to which the victim lacks capacity to consent	*Withholding of documents*	*Kidnapping*	
		Procurement	
		Theft of documents	
		Sexual assault	
		Aggravated assault	
		Rape	
		Death	
		Forced abortion	
		Torture	

Note: Offences in italics indicate that the offences are perpetrated against the individual victim.

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 domestic 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.

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. Their 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 are carried out, for example prostitution, the making of pornography and trafficking in illicit commodities such as narcotic drugs. Apart from offences committed against victims, former victims who assist the authorities may be threatened with or subjected to retaliatory violence and public officials may be the subjects of corruption, subjected to 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 involved in trafficking in persons. 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 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 serious nature of a particular trafficking operation. For example, in some instances, evidence relating to certain aspects of the trafficking operation (e.g. the total number of victims, the 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

It is also important not to overlook violations that are less criminal in nature, such as:

Administrative and regulatory violations

- Violation of wage and labour standards
- Violation of regulations concerning hours and standards of work

Licensing, land use and other infractions

- Not meeting requirements for permits
- Impermissible use of premises
- Unlawful assembly
- Excessive noise or nuisance

Promising practice

Prior to the implementation of anti-trafficking legislation, countries have resorted to relying on other offences. Examples include the following:

- Afghanistan relies on kidnapping and other statutes to prosecute trafficking.
- Angola could prosecute traffickers through elements of its Constitution and statutory laws which criminalize forced and bonded labour.
- Argentina relies on criminal and immigration statutes which offer penalties that are sufficiently stringent to satisfy the requirements of the Trafficking in Persons Protocol.
- Benin has used provisions of the Penal Code, such as those relating to kidnapping and to contributing to the delinquency of a minor, in order to pursue child-trafficking cases.
- In Chad, arrests are made under kidnapping laws.
- China criminalizes forced prostitution, abduction, commercial sexual exploitation of girls under 14 and forced labour.
- Côte d'Ivoire uses laws against child abuse, forced labour and pimping to prosecute traffickers.
- Djibouti could potentially use its laws relating to pimping, the employment of minors, forced labour and the debauching of a minor to prosecute traffickers.
- In Jordan, anti-slavery, kidnapping, assault and rape laws could be used in the prosecution of traffickers.

- Madagascar could refer to laws on the procurement of minors for prostitution, paedophilia or pimping and on deceptive labour practices.
- Morocco has relied on laws relating to prostitution and immigration, as well as those concerning kidnapping, fraud and coercion.
- Adult trafficking cases in Uruguay often rely on commercial laws relating to sexual exploitation, fraud or slavery.

Source: United States Department of State Trafficking in Persons Report June 2007, available at:

www.state.gov/g/tip

Tool 3.4 Liability of legal persons

Overview

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.

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.

Requirements under the Organized Crime Convention

Article 10, paragraph 1, of the Organized Crime Convention requires that each State party:

> 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 case:

- For participation in "serious crimes" involving an "organized criminal group"
- For other offences established by States parties as required by the Convention itself
- 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 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.

Article 10, paragraph 3, of the Convention requires that the liability of legal entities be established "without prejudice to the criminal liability of the natural persons who have committed the offences".

The liability of the 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.

Article 10, paragraph 4, of 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".

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 comparatively 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 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, the appointment of a trustee and direct regulation of corporate structures.

For more details, see the UNODC legislative guides for the implementation of the Convention and the Protocols thereto, at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Tool 3.5 Criminalizing the laundering of proceeds of trafficking in persons

Overview

This tool discusses the need to criminalize the laundering of the proceeds of trafficking in persons as an important part of a comprehensive anti-trafficking strategy.

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 crime" (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 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

Recommended resources

The UNODC legislative guides, at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

An overview of the United Nations Conventions and other international standards concerning anti-money-laundering legislation, at:
www.unodc.org/unodc/en/money-laundering/Instruments-Standards.html

United Nations model legislation on laundering, confiscation and international cooperation in relation to the proceeds of crime, at:
www.unodc.org/unodc/en/money-laundering/Model-Legislation.html

Tool 3.6 Human rights and anti-trafficking legislation

Overview

This tool presents an overview of key principles and documents relating to human rights and anti-trafficking.

For more discussion on human rights considerations, see Tool 4.1, Tool 4.2, Tool 5.15, Tool 7.5 and Tool 8.3.

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights provide important guidance for the criminalization of trafficking in persons and the development of a legislative framework. The relevant guidelines of that document are provided below.

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.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Recommended resources

Human Rights and Trafficking in Persons: a Handbook (Global Alliance against Traffic in Women)

The Global Alliance against Traffic in Women (GAATW) has created a range of resources specific to the human rights dimensions of trafficking in persons. The *Human Rights and Trafficking in Persons Handbook*, produced by GAATW with contributions from a range of non-governmental organizations and United Nations agencies, examines the human rights dimensions of trafficking in persons. It discusses international instruments and materials relevant to human rights in anti-trafficking activities in a bid to offer conceptual clarity about complex obligations of States. It also offers concrete means of incorporating human rights considerations in anti-trafficking strategies. This handbook is available in English, Polish, Russian and Spanish.

For more information about these resources visit:

www.gaatw.net/index.php?option=com_content&task=blogcategory&id=9&Itemid=78

Annotated Guide to the Complete United Nations Trafficking Protocol (Global Rights)

This guide has been designed by Global Rights to assist advocates in developing a human rights framework for national anti-trafficking laws and policies and to interpret the human rights implications of articles of the Trafficking in Persons Protocol and the Organized Crime Convention.

The annotated guide is available in several languages. The English-language version is available at:

www.globalrights.org/site/DocServer/Annotated_Protocol.pdf?docID=2723

Undocumented Migrants have Rights! An Overview of the International Human Rights Framework

(Platform for International Cooperation on Undocumented Migrants)

This March 2007 publication discusses the international human rights framework relating to undocumented migrants, including non-binding United Nations resolutions and recommendations, and also European human rights instruments for the benefit of European Union member States. Of specific relevance to the issue of trafficking in persons is discussion concerning both the explicit human rights considerations in the Trafficking in Persons Protocol and the trafficking considerations contained in human rights instruments.

This publication is available at:

www.picum.org

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. Tool 4.1 provides an overview of this cooperative framework. This is followed by discussion of the specific cooperative mechanisms of extradition (Tool 4.2), mutual legal assistance (Tool 4.4) and seizure of assets and confiscation of proceeds of crime (Tool 4.6). Checklists for extradition and for mutual legal assistance are provided in Tool 4.3 and Tool 4.5 respectively.

The Organized Crime Convention is intended to enhance the integration and synchronization of law enforcement mechanisms to prevent and fight transnational organized crime. Aspects of this international law enforcement cooperation in fighting the transnational organized crime of trafficking in persons are discussed in Tool 4.7 and the provisions of article 27 of the Convention are introduced in Tool 4.8. Bilateral, regional and global agreements reflect the realization that transnational crimes can be addressed effectively only through collaboration on the part of the States involved or affected. Promising practice in the area of bilateral and multilateral cooperation agreements and arrangements is offered in Tool 4.9 and of law enforcement cooperation in Tool 4.10.

MECHANISMS OF CRIMINAL JUSTICE COOPERATION

Tool 4.1 Overview of mechanisms of criminal justice cooperation under the Organized Crime Convention

Tool 4.2 Extradition

Tool 4.3 Extradition checklist

Tool 4.4 Mutual legal assistance

Tool 4.5 Mutual legal assistance checklist

Tool 4.6 International cooperation for the purposes of confiscation

METHODS OF LAW ENFORCEMENT COOPERATION

Tool 4.7 International law enforcement cooperation
Tool 4.8 Article 27 of the Organized Crime Convention, on law enforcement cooperation
Tool 4.9 Bilateral and multilateral cooperation agreements or arrangements
Tool 4.10 Promising cooperative practice

MECHANISMS OF CRIMINAL JUSTICE COOPERATION

Tool 4.1 Overview of the mechanisms of criminal justice cooperation under the Organized Crime Convention

Overview

This tool emphasizes the importance of mechanisms of cooperation in combating transnational organized crime, provides a brief overview of such mechanisms and offers some key resources.

The importance of mechanisms of cooperation

Article 1 of the Organized Crime Convention states that the purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively. Further to this, article 2 *(c)* of the Trafficking in Persons Protocol states that the purpose of the Protocol is the promotion of cooperation among States parties in order to meet the objectives of preventing trafficking and protecting and assisting victims of trafficking, with full respect for their human rights.

Comments by the United Nations High Commissioner for Human Rights

Addressing the thirteenth annual Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region on 30 August 2005, the United Nations High Commissioner for Human Rights called for closer partnerships to combat human trafficking. The High Commissioner said that anti-trafficking mechanisms in the Asian and Pacific region made it a world leader in fighting that transnational crime, but that partnerships against it at the international, regional and subregional levels would

need to be strengthened. The High Commissioner highlighted that regional mechanisms could play a key roll in tackling cross-border trafficking in that they aimed to flesh out a common approach to a complex problem, one that sought to assist States, from a perspective of shared regional values, to address shortcomings in their national frameworks to allow individuals both the means to obtain their rights in full, and see effective redress when those rights were denied.

Source: www.unhchr.ch/huricane/huricane.nsf/view01/703106C6C3210D0DC125706D00372F0E?opendocument

Conference of the Parties

The Conference of the Parties was established under article 32 of the Organized Crime Convention. It is mandated to review the implementation of the Convention and facilitate the exchange of information among States on combating the crimes addressed by the Convention and the Protocols thereto. At the third session of the Conference of the Parties (Vienna, 9-18 October 2006), the Conference adopted decision 3/2 on the implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime, in which it emphasized that the Convention was being successfully used by a number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for the purposes of confiscation, and encouraged States parties to make greater use of the Convention as a legal basis for international cooperation in extradition and mutual legal assistance, particularly where bilateral agreements and domestic laws did not provide for such cooperation.

The full text of the decisions adopted by the Conference of the Parties at its third session is available at the UNODC website:

www.unodc.org

Mechanisms of cooperation

Extradition

Extradition is addressed by article 16 of the Organized Crime Convention.

Because of the nature of trafficking, many of the offenders wanted for prosecution in relation to human trafficking activities will be in other States. Extradition is the surrender of a person sought by the requesting State for criminal prosecution or for the enforcement of

a sentence in relation to an extraditable offence. The process must be improved in relation to human trafficking so as to avoid loopholes in jurisdiction over serious crime and eliminate safe havens for traffickers. Steps must be taken to ensure that the offence of trafficking, its constitutive acts and related offences are extraditable under national law and/or extradition treaties. To assist in streamlining the extradition process, the United Nations has created various tools referred to under "Recommended resources" in Tool 4.2.

Mutual legal assistance

Mutual legal assistance is addressed by article 18 of the Convention.

Because human trafficking is an offence that is frequently committed across borders, States must take steps to ensure that they can cooperate and assist each other in the investigation of trafficking offences and the prosecution and punishment of offenders. The international mobility of offenders and their 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 have entered into treaties on mutual legal assistance in criminal matters. For more on mutual legal assistance, see Tools 4.4 and 4.5.

Other forms of cooperation for the efficient prosecution and punishment of offenders are dealt with under article 17 of the Convention, Transfer of sentenced persons, and article 21, Transfer of criminal proceedings.

International cooperation for the purposes of confiscation

International cooperation for the purposes of confiscation of proceeds of crime derived from offences covered by the Convention and its Protocols, and of property, equipment and other instrumentalities used or destined for use in such offences is addressed under article 13 of the Convention. Article 14, paragraphs 2 and 3 deal with issues relating to the disposal of such proceeds and property confiscated by one party at the request of another party. These issues are discussed in Tool 4.7.

Recommended resources

Legislative guides of the United Nations Office on Drugs and Crime

States seeking to ratify or implement the Organized Crime Convention and its supplementary Protocols, will find the UNODC legislative guides useful. The guides lay out the basic requirements of the Convention and the Protocols thereto, as well as the issues that each State party must address, and offer a range of options and examples that national drafters may wish to consider for the implementation of the Convention. The guides have been drafted with different legal traditions and levels of institutional development in mind and are the product of a broad participatory process involving invaluable input from numerous experts, institutions and Government representatives from all regions of the world.

The UNODC legislative guides are available at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Online directory of competent national authorities

The online directory was initially established in relation to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. As at 20 November 2007, contact information for competent authorities of more than 150 States or dependent territories (more than 600 authorities) had been provided to UNODC, including information on specific procedures to be followed in urgent cases.

Following the adoption of decision 3/2 by the Conference of the Parties to the Organized Crime Convention on 18 October 2006, UNODC—as the secretariat to the Conference of the Parties—has extended the directory to include authorities designated under that Convention, and now provides information in accordance with article 16 (Extradition), article 17 (Transfer of sentenced persons) and article 18 (Mutual legal assistance), as well as article 8 of the Migrants Protocol.

In addition, the online directory was upgraded to allow for external updating of the data by the users themselves; users simply need to request a password for the directory, which will permit full access almost immediately. Competent national authorities are easily able to access updated contact information of their counterparts in most countries of the world, as well as means of communication and information on the legal requirements for cooperation. Access to the online directory is reserved for competent national authorities designated in accordance with the 1988 Convention or the Organized Crime Convention.

For more information on the online directory of competent national authorities, visit:
www.unodc.org/unodc/en/frontpage/upgraded-directory-of-competent-national-authorities.html
and www.unodc.org/compauth/index.html

Tool 4.2 Extradition

Overview

This tool discusses extradition, introduces a range of resources to facilitate entering into extradition agreements and making extradition requests, and refers to some promising examples of cooperation on extradition.

Perpetrators of transnational crimes who are sought for prosecution, or who have been convicted and are sought for the enforcement of a sentence, may be in a foreign State. Extradition proceedings are then required to bring them to justice in the prosecuting State. Extradition is a formal process, leading to the surrender by the requested State of the person sought in the requesting State.

Extradition is addressed by article 16 of the Organized Crime Convention. The extradition provisions are designed to ensure that the Convention supports and complements pre-existing extradition arrangements and does not detract from them. Article 16 sets a basic minimum standard for extradition for offences covered by the Convention and encourages the adoption of a variety of mechanisms to streamline the extradition process.

Scope of the obligation to provide extradition

The extradition obligation applies among States parties to all the offences covered by the Convention and its Protocols. They include:

- The offence of participation in an organized criminal group, as defined in article 5 of the Convention
- The offence of laundering the proceeds of crime (art. 6)
- The offence of corruption (art. 8)
- The offence of obstruction of justice (art. 23)
- Serious crime, as defined in article 2 of the Convention
- The offences established under the Protocols supplementing the Convention, including trafficking in persons (art. 1, para. 3 of the Trafficking in Persons Protocol).

As the Convention requires all States parties to criminalize a certain number of offences, it establishes among the parties a common basis for meeting the crucial requirement of dual criminality (i.e. the requirement that the offence for which extradition is sought be established as a criminal offence both in the requesting and in the requested State).

It should be noted that the Convention applies to the offences listed above when they are transnational in nature and involve an organized criminal group. Article 16 on extradition however, implies that, for the purpose of extradition, it is not necessary to establish the transnationality of the actual criminal conduct where the offence involves an organized criminal group and the person whose extradition is sought is located in the territory of the

requested State. This is to facilitate extradition at a stage when transnationality may still be difficult to establish.

States shall consider offences to which article 16 applies as included in any existing extradition treaty concluded between them and they undertake to include such offences in every extradition treaty to be concluded between them (art. 16, para. 3).

Article 16, paragraph 6 requires States that do not require a treaty basis for extradition to include offences described in article 16, paragraph 1 as extraditable offences under their domestic law. The law governing the extradition must be sufficiently broad in scope to cover the offences described.

Article 16, paragraph 7 provides that grounds for refusal and other conditions for extradition (including in relation to the minimum penalty required for an offence to be considered extraditable) are governed by the applicable extradition treaty in force between requesting and requested States or by the law of the requested State. Therefore, there are no implementation requirements beyond the terms of domestic law and the treaties governing extradition.

Notification of application or non-application of article 16, paragraph 4 as the legal basis for cooperation on extradition

Article 16, paragraph 4 of the Convention provides that where a State party which makes extradition conditional on the existence of a treaty receives a request for extradition from a State party with which it has no extradition treaty, the Convention itself may be considered as the legal basis for granting such a request.

Article 16, paragraph 5 of the Convention requires States parties to inform the Secretary-General of the United Nations if they intend to take the Convention as the legal basis for cooperation. Such information is being included in the online directory of competent national authorities (see Tool 4.1).

If States do not intend to take the Convention as the legal basis for cooperation on extradition, they must seek to conclude treaties on extradition with other States parties to the Convention.

At its third session, the Conference of the Parties adopted decision 3/2 in which it noted that the Convention was being successfully used by a number of States as a basis for granting extradition requests and encouraged States parties to make full use of it (discussed above in Tool 4.1).

Ensuring prosecution and punishment where extradition is refused

If a State does not extradite the person sought on the sole ground that the person is one of its nationals it has, pursuant to **article 16, paragraph 10**, the obligation to submit the case to its competent authorities for the purpose of prosecution (the *aut dedere aut judicare*

obligation), when requested to do so by the State seeking extradition. States that have refused extradition on other grounds than that of nationality are encouraged to do so. The State party that denies extradition will then

- Submit the case to its authorities for prosecution without undue delay
- Conduct the proceedings in the same manner as in the case of a grave domestic offence
- Cooperate with the other State party, in particular on procedural and evidentiary issues, possibly by obtaining mutual legal assistance (art. 18) or the transfer of the criminal proceedings (art. 21) to ensure the efficiency of the prosecution. Legislation may be required if current law does not permit evidence obtained from foreign sources to be used in domestic proceedings.

Under **article 16, paragraph 11**, a State may surrender one of its nationals, on the condition that the person will be returned to that State to serve the sentence that is imposed abroad.

Under **article 16, paragraph 12**, where extradition is sought for the enforcement of a sentence, the requested State which refuses extradition on the ground that the convicted person is one of its nationals shall, at the application of the requesting State, consider enforcing the sentence itself.

Human rights considerations

In making legislative changes and in carrying out extradition, States should note that the intention of the Convention is to ensure the fair treatment of those whose extradition is sought and the application to them of all existing rights and guarantees applicable in the State party from whom extradition is requested.

Article 16, paragraph 13, provides that any person regarding whom proceedings are being carried out shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State party in which that person is present.

Article 16, paragraph 14, states:

> Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

Recommended resources

Model Law on Extradition of the United Nations Office on Drugs and Crime

The existence of national legislation may be important as a procedural or enabling framework in order to support the implementation of 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 this, UNODC elaborated a Model Law on Extradition to assist interested States in drafting or amending domestic legislation in this field.

The Model Law on Extradition is available at:
www.unodc.org/pdf/model_law_extradition.pdf

Model Treaty on Extradition of the United Nations Office on Drugs and Crime

The Model Treaty on Extradition (General Assembly resolution 45/116, annex, subsequently amended in resolution 52/88, annex) 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 and the Revised Manuals on the Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Criminal Matters are available at:
www.unodc.org/unodc/en/legal-tools/Model.html

Recommendations on extradition of the Informal Expert Working Group on Effective Extradition Casework Practice of the United Nations Office on Drugs and Crime

The Informal Expert Working Group on Effective Extradition Casework Practice of the UNODC Legal Advisory Programme met in Vienna in 2004 to discuss the most common impediments in major legal traditions to efficient and effective extradition. The product was a report containing a comprehensive package of recommendations pertaining to:

- Extradition infrastructure: legislation, treaties, institutional structures, etc.
- Day-to-day casework practice: planning, preparation, conduct of proceedings, communication systems, language problems etc.

Also of particular use is annex C to the report, which provides a checklist for the content of extradition requests, required supporting documents and information. That checklist is provided in Tool 4.3.

The report of the Informal Expert Working Group on Effective Extradition Casework Practice can be downloaded at:
www.unodc.org/pdf/ewg_report_extraditions_2004.pdf

Relevant multilateral or regional instruments

In addition to the Organized Crime Convention, the following other multilateral instruments include specific provisions on extradition:

- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United Nations, *Treaty Series*, vol. 1582, No. I-27627)
- United Nations Convention against Corruption (General Assembly resolution 58/4 of 31 October 2003, annex)
- International instruments against terrorism (for a brief overview of the international instruments against terrorism, visit www.unodc.org/unodc/en/terrorism/conventions.html

In addition, the need for a multilateral approach has led to several interregional and regional initiatives.

African instruments

The Economic Community of West African States Convention on Extradition (1994)

www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/ecowas/4ConExtradition.pdf

Southern African Development Community Protocol on Extradition
(approved in 2002, not yet in force)

www.sadc.int/english/documents/legal/protocols/extradition.php

Arab instrument

Extradition Agreement of the League of Arab States (1952)

This instrument was approved by the Council of the League of Arab States in 1952, but was signed by only a limited number of States and ratified by fewer. The Convention is a stand-alone basis for extradition, but contemplates the existence of bilateral arrangements between States parties.

Commonwealth instrument

Commonwealth Scheme for the Rendition of Fugitive Offenders (as amended in 1990)

This Commonwealth Scheme was conceived at a meeting of law ministers in London in 1966 to provide for reciprocal agreements among Commonwealth member States.

www.thecommonwealth.org/Internal/38061/documents/

European instruments

Council of Europe, European Convention on Extradition (1957) (United Nations, *Treaty Series*, vol. 359, No. 5146)

http://conventions.coe.int/Treaty/EN/Treaties/Html/024.htm

The two Additional Protocols to the European Convention on Extradition (1975 and 1978) (Council of Europe, *European Treaty Series*, Nos. 86 and 98, respectively)

http://conventions.coe.int/Treaty/en/Treaties/Html/086.htm

http://conventions.coe.int/Treaty/en/Treaties/Html/098.htm

Convention on Simplified Extradition Procedure between the Member States of the European Union (1995) (*Official Journal of the European Communities*, C 078, 30 March 1995)

This European Union Convention supplements the European Convention on Extradition of the Council of Europe and simplifies the extradition procedure between member States without affecting the application of the most favourable provisions of bilateral or multilateral agreements.

http://europa.eu/scadplus/leg/en/lvb/l14015a.htm

Convention relating to Extradition between the Member States of the European Union (1996) (*Official Journal of the European Communities*, C 313, 23 October 1996)

The aim of this Convention was to facilitate extradition between European Union member States in certain cases. It supplemented other international agreements such as the 1957 European Convention on Extradition, the 1997 European Convention on the Suppression of Terrorism and the 1995 European Convention on Simplified Extradition Procedure. The 1996 Convention has been replaced in most cases by the Framework Decision on the European arrest warrant.

http://europa.eu/scadplus/leg/en/lvb/l14015b.htm

Council framework decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States

This framework decision simplifies and speeds up the extradition procedure, by replacing the political and administrative phase of the process with a judicial mechanism. The framework decision replaced the Convention relating to Extradition between Member States of the European Union as of July 2004. The procedure for the surrender of fugitives within the European Union, established by the 2002 Council Framework Decision on the European arrest warrant, is intended to 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.

http://europa.eu/scadplus/leg/en/lvb/l33167.htm

Benelux Convention on Extradition and Judicial Assistance in Penal Matters (1962)

The Benelux Convention was adopted by Belgium, Luxembourg and the Netherlands in June 1962. This Convention reflects many aspects of the European Convention provisions, but many of its substantive articles are specific to the close relations between the signatories.

Nordic States Scheme (1962)

Adopted by Denmark, Finland, Iceland, Norway and Sweden, this extradition treaty reflects the strong connections between those States.

Inter-American instruments

Inter-American Convention on Extradition

The Inter-American Convention on Extradition, which entered into force in 1992, was the result of a long history of inter-American extradition conventions dating back to 1879. The Convention is open to accession by any American State, and to Permanent Observers to the Organization of American States following approval by the General Assembly of the Organization of American States.

www.oas.org/juridico/English/treaties/b-47.html

Promising practice

European arrest warrant replaces extradition between European Union member States

The member States of the European Union were required to introduce legislation to bring the European arrest warrant into effect by 1 January 2004. On 13 June 2002, the Council of Ministers of the European Union adopted a framework decision on the European arrest warrant and the surrender procedures between member States of the European Union.

A European arrest warrant, which has replaced extradition procedures throughout the European Union, may be issued by a national court if the person whose return is sought is accused of an offence for which the penalty is at least a year in prison or if he or she has been sentenced to a prison term of at least four months. Its purpose is to replace lengthy extradition procedures with a new and efficient way of bringing back suspected criminals who have absconded abroad and people convicted of a serious crime who have fled the country, in order to transfer them forcibly from one member State to another for the purpose of criminal prosecution or the execution of a custodial sentence or detention order. The European arrest warrant enables such people to be returned within a reasonable time for their trial to be completed or for them to be put in prison to serve their sentence.

The European arrest warrant is based on the principle of mutual recognition of judicial decisions. This means that a decision by the judicial authority of a member State to require the arrest and return of a person should be recognized and executed as quickly and as easily as possible in the other European Union member States.

Advantages of the European arrest warrant over extradition procedures

Faster procedures. The State in which the person is arrested has to return him/her to the State where the European arrest warrant was issued within a maximum period of 90 days of the arrest. If the person gives consent to the surrender, the decision shall be taken within 10 days.

Simpler procedures. The dual criminality principle is abolished for 32 serious categories of offences, including trafficking in human beings. European arrest warrants issued in respect of crimes where dual criminality is abolished have to be executed by the arresting State irrespective of whether or not its definition of the offence is the same as that in the State which has issued the warrant, providing that the offence is serious enough and punishable by at least three years' imprisonment in the latter State.

No political involvement. In extradition procedures, the final decision on whether to surrender the person or not is a political decision. The European arrest warrant procedure abolished the political stage of extradition. This means that the execution warrant is simply a judicial process under the supervision of the national judicial authority which is, inter alia, responsible for ensuring the respect of fundamental rights.

Surrender of nationals. The European arrest warrant is based on the principle that European Union citizens shall be responsible for their acts before national courts across the European Union. This means that European Union member States can no longer refuse to surrender their own nationals. On the other hand, it will be possible for a member State, while surrendering such persons, to ask that they be returned to its territory to serve their sentence in order to facilitate their future reintegration.

Guarantees. The European arrest warrant ensures a good balance between efficiency and strict guarantees that the arrested person's fundamental rights are respected. In implementing the Framework Decision on the European arrest warrant, member States and national courts have to ensure that the provisions of the European Convention on Human Rights are respected.

Life sentence. Where someone arrested under a European arrest warrant may be sentenced to life imprisonment, the State executing the arrest warrant may insist, as a condition of executing it, that if sentenced to life imprisonment, the accused person will have a right to have his or her personal situation periodically reconsidered. (There is no mention of the death penalty, given that it has been abolished in the European Union.)

Relations with third countries. The European arrest warrant only applies within the territory of the European Union. Relations with third countries are still governed by extradition rules. If a person has been surrendered to another European Union country in accordance with the European arrest warrant and is afterward demanded by a third country, the member State which authorized the surrender in the first place shall be consulted.

Grounds for refusal

The surrender of a person can be refused on several grounds (see arts. 3 and 4 of the Framework Decision), among which are:

- The *ne bis in idem* or double jeopardy principle, which means that the person will not be returned to the country that issued the arrest warrant if he or she has already been tried for the same offence
- Amnesty: where the offence is covered by an amnesty in the national legislation of the executing State
- Statutory limitation: where the offence is statute barred according to the law of the executing State (which means that the time limit has been passed and that it is too late under that country's law to prosecute the person)
- The age of the person: where the person is a minor and has not reached the age of criminal responsibility under the national laws of the executing State

It is also possible for a member State to execute directly the sentence decided in another member State instead of surrendering the person to that member State.

This information is extracted from the European Commission Justice and Home Affairs website at:
http://ec.europa.eu/justice_home/fsj/criminal/extradition/fsj_criminal_extradition_en.htm

Tool 4.3 Extradition checklist

Overview

This tool provides a checklist for the content of effective extradition requests.

The Informal Expert Working Group on Effective Extradition Casework Practice of the UNODC Legal Advisory Programme met in Vienna in 2004 to discuss the most common impediments in major legal traditions to efficient and effective extradition (see Tool 4.2). The product was a report containing a comprehensive package of recommendations. Also included in that report was a checklist for the content of extradition requests, supporting documents and information. This checklist is provided below.

Extradition checklist

Mandatory content/document requirements for all requests

Identity of the person sought

A description of the person sought and other information which may be relevant to establishing his or her identity, nationality and location

Facts and procedural history of the case

An overview of the facts and procedural history of the case, including the applicable law of the requesting State and the criminal charge against the person sought

Legal provisions

A description of the offence and applicable penalty, with an excerpt or copy of relevant parts of the law of the requesting State

Statute of limitations

Any relevant limitation period beyond which prosecution of a person cannot lawfully be brought or pursued

Legal basis

A description of the basis upon which the request is made, e.g. national legislation, the relevant extradition treaty or arrangements or, in the absence thereof, by virtue of comity

If the person sought is accused of an offence (but not yet convicted)

Warrant of arrest

The original or certified copy of a warrant issued by a competent judicial authority for the arrest of that person, or other documents having the same effect.

Statement of the offence(s)

A statement of the offence(s) for which extradition is requested and a description of the acts or omissions constituting the alleged offence(s), including an indication of the time and place of commission. Also the maximum sentence for each offence, the degree of participation in the offence by the person sought and all relevant limitation periods.

Evidence

Identity evidence is always required. Check whether sworn evidence is required. If so, check whether the witness must depose that he or she both knows the persons sought and knows that the person engaged in the relevant acts or omissions constituting the relevant offence(s). Suspicion of guilt for every offence for which extradition is sought must be substantiated by evidence. Check in advance whether it must take the form of sworn or unsworn evidence of witnesses, or whether a sworn or unsworn statement of the case will suffice. If a statement of the case will suffice, check whether it has to contain particulars of every offence. Where sworn evidence is required, check if this has to show prima facie evidence of every offence for which extradition is sought. If so, clarify what is required and admissible to establish that or any lesser test. Ensure all is provided in the form required.

If the person sought is convicted of an offence

An original or a certified/authenticated copy of the original conviction/detention order, or other documents having the same effect, to establish that the sentence is immediately enforceable. The request should also include a statement establishing to what extent the sentence has already been carried out. A statement indicating that the person was summoned in person or otherwise informed of the date and place of hearing leading to the decision or was legally represented throughout the proceedings against him or her, or specifying the legal means available to him/her to prepare his/her defence or to have the case retried in his/her presence. A document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

Signature of documents, assembly of request and attachments

Warrants of arrest and conviction/detention order

Check in each case whether the warrant or order must be signed by a judge, magistrate or other judicial officer, or officer of State.

Check whether the officer of State must also sign each separate document.

Assembly of request

Check whether all the documents included in the request and attachment must be bundled together, and what if any seals are required to prevent later arguments that documents have been added or removed.

Transmission of the request

Ensure the request and attachments are transmitted by the channel agreed with the requested State (not necessarily the diplomatic channel). Monitor the transmission and delivery to ensure crucial time limits are met.

Optional additional content/documents

Identity of authority

Identification of the office/authority requesting the provisional arrest/extradition.

Prior communication

Details of any prior contact between officers in the requesting and requested States.

Presence of officials

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 extradition request and the reason why this is requested.

Indication of urgency and/or time limit

An 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.

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.

Language

The request and accompanying documents should be made in or accompanied by a certified translation (of the whole, not only of part of the documents) in a language specified by the requested State (or if that State permits more than one, the preferred language indicated after consultation).

Supplementary documents

If the documents provided do not suffice after checking in advance of the request with the requested State, provide the needed supplementary information/documents.

Note: This checklist was not intended by the Expert Working Group to be a universally exhaustive checklist.

The full report of the Informal Expert Working Group on Effective Extradition Casework Practice can be downloaded at:
www.unodc.org/pdf/ewg_report_extraditions_2004.pdf

Tool 4.4 Mutual legal assistance

Overview

This tool discusses mutual legal assistance, introduces the reader to a range of resources to facilitate assistance and offers some promising examples of mutual legal assistance.

In a large number of cases of trafficking in persons, 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 the State's territory accomplishes an important part of the task, but does not complete it.

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.

Scope of mutual legal assistance

Article 18 of the Organized Crime Convention builds upon a number of previous global and regional initiatives. It calls for States parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings. The offences in relation to which assistance ought to be granted 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.

States parties are also obliged, by article 18, paragraph 1, of the Organized Crime Convention, 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 and that the offences involve an organized criminal group.

As outlined in article 18, paragraph 3, of the Convention, 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, expert evaluations, documents and records
- Identifying or tracing proceeds of crime, property or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation (see art. 13 of the Convention)
- Facilitating the appearance of witnesses
- Any other type of assistance not barred by domestic law

As stated in article 18, paragraph 2, of the Convention, mutual legal assistance shall be afforded to the fullest extent possible.

Use of the Organized Crime Convention in the absence of mutual legal assistance treaties

Article 18, paragraph 7, of the Convention provides that paragraphs 9 to 29 of that article shall apply when States parties are not bound by a bilateral or regional treaty of mutual legal assistance. Where there is a treaty in place, it shall apply unless the States agree to apply article 18, paragraphs 9 to 29 of the Convention instead. In this sense, article 18, paragraphs 9 to 29 can be used as a "mini mutual legal assistance treaty" in the absence of other treaties. These paragraphs address various issues relevant to mutual legal assistance, for instance:

Article 18.9	When mutual legal assistance may be declined
Article 18.10-12	Conditions for transfer of a person
Article 18.14	How requests for assistance are to be made: Article 18, paragraph 14, requests States to notify the Secretary-General of the United Nations of the language or languages acceptable to each State party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention.

Article 18.15	Content of requests for assistance
Article 18.16	Requests for additional information by the requested State party
Article 18.17	Compliance of requests with domestic law
Article 18.18	Provision of evidence by video conference
Article 18.19	Use of information and evidence
Article 18.20	Confidentiality of requests
Article 18.21-23	Refusal of requests
Article 18.24	Execution of requests: The Convention recognizes the diversity of legal systems and allows States to refuse to provide mutual legal assistance under certain conditions (see art. 18, para. 21). However, it makes it clear that assistance cannot be refused on the 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 the expiration of statutes of limitation).
Article 18.25-26	Postponement of assistance
Article 18.27	Safe conduct of witnesses, experts or other persons giving evidence
Article 18.28	Costs associated with executing requests
Article 18.29	Obligations of the requested State party to provide materials to the requesting State

Recommended resources

Mutual legal assistance request writer tool of the United Nations Office on Drugs and Crime

UNODC has developed a mutual legal assistance request writer tool to help practitioners streamline the process of lodging requests. 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 also does not require Internet access.

The request writer tool 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 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 the data and then automatically drafts a correct, complete and effective request (in Microsoft Word) for final proofing and signature. The tool also provides details of where in other States to send the request and includes useful links to

the legislation of other countries. The tool is available free of charge in English, French, Portuguese, Russian and Spanish.

For more information, please visit:
www.unodc.org/mla/index.html

United Nations Model Law on Mutual Assistance in Criminal Matters (2007)

The United Nations Model Law on Mutual Assistance in Criminal Matters was elaborated by the Treaty and Legal Affairs Branch of the UNODC Division for Treaty Affairs, in accordance with General Assembly resolution 53/112 of 9 December 1998. This tool can be adapted to domestic circumstances for the effective implementation of mutual legal assistance.

The Model Law is available at:
www.unodc.org/unodc/en/legal-tools/Model.html

United Nations Model Treaty on Mutual Assistance in Criminal Matters

The Model Treaty on Mutual Assistance in Criminal Matters was adopted by the 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:
www.unodc.org/unodc/en/legal-tools/Model.html

The Revised Manuals on the Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Criminal Matters are available at:
www.unodc.org/pdf/model_treaty_extradition_revised_manual.pdf

In some instances, national legislation must also be reviewed and amended to facilitate international cooperation and the use of foreign evidence in order for there to be full 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:
www.unodc.org/pdf/lap_foreign-evidence_2000.pdf

Basic Guide to Prosecutors in Obtaining Mutual Legal Assistance in Criminal Matters

(International Association of Prosecutors)

The International Association of Prosecutors (IAP), established in June 1995 at the United Nations Office at Vienna, has created a basic guide for use by prosecutors in obtaining mutual legal assistance. The guide is intended to be a simple route map for achieving mutual legal assistance and sets out useful principles and three basic rules to be followed.

- *Rule 1*. The contents of the request you send should be completed with care. Confidentiality may not always be possible and if it is required, this must be made clear on the face of the document.
- *Rule 2*. Ask another State to do for you only what your law enables you to do and only where the request will result in additional evidence of value to the prosecution. In doing so, respect common rules relating to certainty, confidentiality, disclosure, dual criminality, defamation, human rights, proportionality and reciprocity.
- *Rule 3*. Check the contents of your request, ensuring that all necessary particulars are clearly included and that all necessary annexes are attached.

The IAP basic guide is available at:
www.iap.nl.com

Promising practice

Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition

(Organization of American States)

At the third Meeting of Ministers of Justice and Attorneys General of the Americas, held in 2000, it was decided to improve information exchanges between OAS member States in the area of mutual legal assistance in criminal matters. A working group was established and developed a pilot project focusing on the creation of a criminal justice information exchange network. One component of the resulting Information Exchange Network is a public website that enables citizens of OAS member States to become familiar with their

own justice systems and those of the States they are working with. The site includes a general description of legal systems of countries of the Americas and posts laws and bilateral and multilateral agreements in force concerning extradition and mutual legal assistance in criminal matters. This information is available in the four official languages of the OAS: English, French, Portuguese and Spanish.

For more information about the OAS Information Exchange Network, visit:

www.oas.org/juridico/mla/en/index.html

European liaison magistrates

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

Mutual legal assistance instruments

African instruments

Cooperation agreement on police matters between Benin, Ghana, Nigeria and Togo (Lagos, 1984)

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

Southern African Development Community Protocol on Mutual Legal Assistance in Criminal Matters (2002)

www.sadc.int/english/documents/legal/protocols/legal_assistance.php

Mutual Assistance Pact between Member States of the Economic Community of Central African States (2002)

ASEAN instrument

ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (2004)

In Kuala Lumpur on 29 November 2004, the Governments of Brunei Darussalam, Cambodia, Indonesia, the Lao Democratic People's Republic, Malaysia, the Philippines,

Singapore and Viet Nam signed the ASEAN Treaty for Mutual Legal Assistance in Criminal Matters.

www.aseansec.org/17363.pdf

Commonwealth instrument

Scheme (the Harare Scheme) relating to Mutual Assistance in Criminal Matters within the Commonwealth
(1986, as amended in 1990 and 1999)

The Commonwealth scheme (the Harare Scheme) was agreed in 1990 and amended in 2002 and 2005. It is not a treaty or convention, but it assists States in making requests for assistance. Paragraph 14 of the scheme sets out the contents to be contained in such a request.

www.thecommonwealth.org/Internal/38061/documents/

European instruments

European Convention on the Transfer of Proceedings in Criminal Matters
(Strasbourg, 1972; came into force in 1978)

(*European Treaty Series*, No. 73)

http://conventions.coe.int/treaty/en/Treaties/Html/073.htm

Act on mutual assistance in criminal matters between European Union member States (2000)

Given that legal and judicial systems differ from one European Union member State to another, this Act sought to establish a cooperative mechanism to facilitate mutual judicial assistance between authorities (police, customs and courts) to improve the speed and efficiency of cooperation.

http://europa.eu/scadplus/leg/en/lvb/l33108.htm

The European Convention on Mutual Assistance in Criminal Matters (1959)

(*European Treaty Series*, No. 30)

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

Additional Protocols to the European Convention on Mutual Assistance in Criminal Matters (1978, 2001)

(*European Treaty Series*, Nos. 99 and 182)

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

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

Convention on Mutual Assistance and Cooperation between Customs Administrations (1998)

This Convention, drawn up on the basis of article K3 of the Treaty on the European Union, seeks to increase cooperation among customs officials. It is not intended to affect other provisions regarding mutual assistance in criminal matters between judicial authorities, or more

favourable provisions in bilateral or multilateral agreements between European Union member States governing customs cooperation.

http://europa.eu/scadplus/leg/en/lvb/l33051.htm

Nordic States Scheme (1962)

Adopted by Denmark, Finland, Iceland, Norway and Sweden, this scheme reflects the strong connections between those States.

Agreement among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organized Forms (1998) and its **Additional Protocol** (2002)

Inter-American instruments

Inter-American Convention on Mutual Assistance in Criminal Matters (1992)

www.oas.org/juridico/english/study.htm

Optional Protocol related to the Inter-American Convention on Mutual Assistance in Criminal Matters (1993)

www.oas.org/juridico/english/treaties/a-59.html

The Inter-American Convention on the Taking of Evidence Abroad (1975)

www.oas.org/juridico/english/treaties/b-37.html

Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad (1984)

www.oas.org/juridico/english/treaties/b-51.html

Australian instrument

Through the Mutual Assistance (Transnational Organised Crime) Regulations 2004 and the Mutual Assistance in Criminal Matters Act 1987, mutual legal assistance is potentially available to all States parties to the Organized Crime Convention.

For more information, visit:

www.ministerjusticeandcustoms.gov.au/www/agd/agd.nsf/page/Extradition_and_mutual_assistance

Tool 4.5 Mutual legal assistance checklist

Overview

This tool offers a checklist for making mutual legal assistance requests.

The Informal Expert Working Group on Mutual Legal Assistance Casework Best Practice of the UNODC Legal Advisory Programme met in Vienna in 2001. The Informal Expert Working Group comprised experts from Africa, the Americas, Asia and the Pacific, the Caribbean and Europe representing all major legal traditions. In its final meeting report, the group compiled best practice recommendations to improve mutual legal assistance in casework. Also contained in this report are various checklists, including the following general checklist for preparing mutual legal assistance requests.

Mutual legal assistance checklist

Requests for mutual legal assistance 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 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 at the execution of the 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 specified by the requested State.

Note: Where it becomes evident that a request or the aggregate of requests from a particular State involves 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.

This resource can be downloaded at:
www.unodc.org/pdf/lap_mlaeg_report_final.pdf

Some governments have created their own checklists to facilitate the process of requesting assistance. One such example is that created by the Australian Attorney-General's Department for States wishing to request such assistance from Australia, available at:

www.ag.gov.au/www/agd/agd.nsf/Page/ExtraditionandmutualassistanceMutualassistanceMutualassistanceincriminalmatters-checklistforrequestsfromothercountriestoAustralia

Tool 4.6 International cooperation for the purposes of confiscation

Overview

This tool describes the provisions of the Organized Crime Convention relating to the confiscation and seizure of proceeds of crime and introduces resources which can assist in the process.

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 prosecuted.

Criminalizing trafficking in persons 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 criminal groups to continue their activities.

Practical measures to keep offenders from profiting from their crimes must be put into effect. One of the most important ways of doing 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 (see Tool 5.7, "Seizure of assets and confiscation of proceeds of crime"). 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.

Confiscation and asset seizure under Article 13 of the Organized Crime Convention

Articles 12, 13 and 14 of the Organized Crime Convention are devoted to the 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.

As discussed in Tool 5.7, without effective implementation of article 12 of the Organized Crime Convention, States will be unable to respond effectively to international requests. Article 12 requires States parties to adopt measures, to the greatest extent possible within their legal systems, to enable confiscation of the proceeds, or property whose value is equivalent to the value of proceeds, and the instrumentalities of offences covered by the Convention. It also obligates States parties to adopt measures to enable the identification, tracing, freezing and seizing of such items for the purpose of eventual confiscation. In addition, it obligates each State party to empower its courts or other competent authorities to order that bank or other records be made available for the purposes of facilitating such identification, freezing and confiscation. Please refer to Tool 5.7 for more information about article 12.

Article 13 sets forth procedures for international cooperation in confiscation matters. These are important procedures, 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 this article to take specific measures to identify, trace, and freeze or seize proceeds of crime for the purpose of eventual confiscation. Article 13 also describes the manner in which such requests are to be executed.

The two options provided for by article 13 are:

> *Indirect method*:
>
> (Art. 13, para. 1 (a)) A State which receives a request from another State to confiscate, or a preliminary request to identify, trace and freeze proceeds of crime can submit such request to its competent authorities and obtain an order of confiscation or order to identify, trace and freeze, and then give effect to it.
>
> *Direct method*:
>
> (Art. 13, para. 1 (b)) A State which receives a request to confiscate, or a preliminary request to identify, trace and freeze may treat such foreign request as though it were a domestic order and submit it to its competent authorities to be put into effect. This is the cost- and time-saving, and therefore most efficient, method.

Treaty and other agreements or arrangements for confiscation

By virtue of article 13, paragraph 9, States are also to consider entering into bilateral and multilateral agreements to enhance the effectiveness of international cooperation with respect to confiscation.

Where a Party makes international cooperation for the purposes of confiscation conditional on the existence of a relevant treaty, article 13, paragraph 6, requires such party to

consider the Convention as the necessary and sufficient treaty basis for cooperation for purposes of confiscation.

Notification of the Secretary-General of the United Nations

Article 13, paragraph 5, requires that States shall notify the Secretary-General of the United Nations of any changes to laws and regulations that give effect to the implementation of article 13.

Disposal of confiscated assets: article 14

Article 14 of the Organized Crime Convention addresses the final stage of the confiscation process: the disposal of confiscated assets.

While such disposal is to be carried out in accordance with domestic law, **article 14, paragraph 2**, calls upon States parties requested to carry out confiscation to give priority consideration to returning the confiscated assets to the requesting State for use as compensation to crime victims or for restoration to legitimate owners. For more information on restitution of assets and compensation of victims, please see **Tool 8.17**.

Alternatively, **article 14, paragraph 3**, encourages States to consider concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime to the United Nations account designated for the provision of assistance to countries in implementing the Convention, or to intergovernmental bodies specializing in the fight against organized crime, or

(b) Sharing the proceeds with other States parties on a regular or case-by-case basis.

See below, under *Recommended resources*, the UNODC model bilateral agreement on the sharing of confiscated proceeds of crime or property covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

Recommended resources

Legislative guides of the United Nations Office on Drugs and Crime for the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

The UNODC legislative guides are available at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Model bilateral agreement on the sharing of confiscated proceeds of crime or property covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

(Economic and Social Council resolution 2005/14, annex)

The model bilateral agreement is available at:
www.unodc.org/pdf/ECOSOC_resolution_2005-14.pdf

Stolen Asset Recovery initiative: Challenges, Opportunities and Action Plan

(United Nations Office on Drugs and Crime and the World Bank, June 2007)

The Stolen Asset Recovery (StAR) initiative has been launched jointly by UNODC and the World Bank Group to respond to the problem of stolen assets in a context of corruption. The initiative prioritizes building and strengthening partnerships among developed and developing countries, as well as other bilateral and multilateral agencies with an interest in the problem.

The StAR initiative is an integral part of the World Bank Group's Governance and Anti-Corruption Strategy, which recognizes the need to help developing countries recover stolen assets. The international legal framework underpinning the StAR initiative is provided by the United Nations Convention against Corruption, which entered into force in December 2005. UNODC is both the custodian and the lead agency supporting the implementation of the Convention against Corruption and is the secretariat for the Conference of the State Parties to that Convention.

Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities and Action Plan is available at:
www.unodc.org/pdf/Star_Report.pdf

Group of Eight best practice principles on tracing, freezing and confiscation of assets

The Group of Eight (G8) has identified best practices for domestic measures and international cooperation with regard to the tracing, freezing and confiscation of assets. In addition, it has identified the general principles that all States should review and revise their laws and procedures with a view to enhancing their cooperative capacities, and should undertake joint investigation and prosecution to facilitate a stronger law enforcement response.

The G8 best practice principles on tracing, freezing and confiscation of assets can be referred to at:
www.usdoj.gov/ag/events/g82004/G8_Best_Practices_on_Tracing.pdf

Promising practice

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

(Strasbourg, 1990,* European Treaty Series *No. 141, entered into force on 9 January 1993)

http://conventions.coe.int/Treaty/EN/Treaties/Html/198.htm

Memorandum of understanding on regional cooperation and exchange of information related to identification, seizure and confiscation of proceeds of crime

Heads of police from South-Eastern Europe (Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and UNMIK) met in Belgrade on 20 June 2007 to sign a memorandum of understanding on regional cooperation and exchange of information. The informal agreement—part of a Council of Europe/European Commission regional project against serious crime in South-Eastern Europe—is intended to facilitate effective, easy and prompt exchange of information for the purpose of identifying, tracing, seizing and confiscating proceeds of crime. The heads of police will meet again in 2008 to evaluate the effectiveness of cooperation and strengthen capacities to combat organized and economic crime.

More information about the workshop which gave rise to this memorandum of understanding is available at:
www.coe.int/t/e/legal_affairs/legal_co-operation/combating_economic_crime/3_technical_cooperation/carpo/Output_2_-_Special_investigations/Belgrade19-20.2007_main.asp

Assets Recovery Agency, United Kingdom

The Assets Recovery Agency was established under the Proceeds of Crime Act 2002 and is intended to:

- Disrupt organized criminal enterprises through the recovery of criminal assets, thereby alleviating the effects of crime on communities
- Promote the use of financial investigation as an integral part of criminal investigation, within and outside the Agency, domestically and internationally, through training and continuing professional development

The Agency comprises a team of financial investigators and lawyers who act to prevent criminals from benefiting from the proceeds of their crime, thereby sending out the message that crime does not pay. In addition, the Agency performs civil recovery and criminal confiscation roles in England, Wales and Northern Ireland and has financial investigators based at various locations throughout these countries. The Agency also conducts tax investigations throughout the United Kingdom.

On 11 January 2007, the Parliamentary Under-Secretary of State for the Home Department announced in a written ministerial statement that the Government would be bringing forward proposals to merge the Assets Recovery Agency with the Serious Organised Crime Agency. Thereby, it was felt, understanding of organized crime would be increased and the tools used to tackle it would be broadened and strengthened.

More information about the Assets Recovery Agency is available at:
www.assetsrecovery.gov.uk

Camden Assets Recovery Inter-Agency Network

The Camden Assets Recovery Inter-Agency Network, an informal network of expert practitioners from the law enforcement and judicial sectors on criminal assets tracing, freezing, seizure and confiscation, was established in 2004. The initiative was reinforced by decision 2007/845/JHA adopted on 6 December 2007, in which the Council of the European Union decided that each State member of the European Union shall set up or designate a national asset recovery office in order to facilitate the tracing and identification of proceeds of crime. The aim of the Network is to enhance the effectiveness of efforts to deprive criminals of their profits and it is now a major law enforcement tool in targeting organized crime groups. The Network also enhances cross-border and inter-agency cooperation, as well as information exchange.

Nigeria

In response to a request from Nigeria, UNODC launched a project aimed at assisting Nigeria in recovering stolen assets stored in foreign countries and in preventing and com-

bating the transfer of funds deriving from acts of corruption, including the laundering of funds, and in returning such funds. Under the project, first the institutional and legal control weaknesses that have made possible the massive looting of funds will be assessed and then the shortcomings of current efforts to recover these funds. The assessment will focus on institutional, organizational and coordination weaknesses and identify needs for training and other capacity-building measures.

More information about this initiative is available at:
www.unodc.org/nigeria/en/judicialintegrity.html

METHODS OF LAW ENFORCEMENT COOPERATION

Tool 4.7 International law enforcement cooperation

Overview

This tool discusses aspects of international law enforcement cooperation:

- *Channels of law enforcement cooperation*
- *Direct bilateral or multilateral contact*
- *Cooperation on information-sharing*
- *Expanding contacts between investigators*
- *Cooperation during investigations*

Investigations of human trafficking networks and offences can be quite complex, particularly given that they must often be conducted 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.

Channels of law enforcement cooperation

In the majority of jurisdictions, it is possible to rely on two channels of international law enforcement 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.

With regard to the first channel, it may be necessary to understand who has the authority to consider the request that is being made and to authorize the activity required to provide assistance, e.g. the deployment of surveillance resources 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.

As far as the second channel is concerned, 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 contacts

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 enable the investigator to establish the existence of facts before seeking formal access to evidence by way of letters of request.

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 serious risk:

- To the safety of an existing or potential victim or that person's family
- That the suspect(s) will escape justice
- That vital evidence will be irretrievably lost
- That the ability to identify and sequestrate criminal assets will be irretrievably compromised

In each such case, the requesting investigator would have to be able to demonstrate to the INTERPOL National Central Bureau 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.

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 case in which the information could be used as evidence, and 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 may 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, law enforcement agencies can work to unravel criminal networks while building up contacts and increasing the level of mutual trust. A key recommendation is to limit the scope of the project at the start and gradually increase the scope of the information gathering and analysis as cooperation develops. When results start appearing, it will be time for discussions on future responsibilities and division of work.

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 are bringing together practitioners to discuss common problems.

At the global level, INTERPOL has established the Expert Working Group on Trafficking in Women for Sexual Exploitation. This group is open to law enforcement representatives from any of the 186 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 through the work of the group.

The European Police Office (Europol) and other law enforcement agencies also organize meetings to discuss trends in and methods of trafficking. It is in the interests of States to ensure that they are represented at relevant meetings.

Cooperation during investigations

The need for assistance from law enforcement agencies in other States arises 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 186 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, which transmits them in a secure and rapid way to the relevant State.

Requests for cooperation in trafficking cases can concern 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 persons involved. The results of such information exchange can lay the foundation for later formal requests for legal assistance.

For more information about INTERPOL, visit:
www.interpol.int

Promising practice

For more information about INTERPOL, visit:

The INTERPOL “I-24/7” global communications system is a promising cooperative practice. For more information about this and other initiatives, see Tool 4.10.

Tool 4.8 Article 27 of the Organized Crime Convention, on law enforcement cooperation

Overview

This tool introduces the reader to article 27 of the Organized Crime Convention, which requires States parties to develop close law enforcement cooperation.

Article 27, paragraph 1, of the Organized Crime Convention establishes the scope of the obligation to cooperate. Subject to their respective domestic legal and administrative systems, States parties are to cooperate closely in terms of law enforcement (police-to-police cooperation) in areas prescribed in subparagraphs *(a)* to *(f)* by:

- Strengthening the channels of communication among their respective law enforcement authorities (1 *(a)*)
- Undertaking specific forms of cooperation in order to obtain information about persons and about movements of the proceeds and instrumentalities of crime (1 *(b)*)
- Providing one another with items or substances for investigative purposes (1 *(c)*)
- Promoting exchanges of personnel, including the posting of liaison officers (1 *(d)*)
- Exchanging information on a variety of means and methods used by organized crime groups (1 *(e)*)
- Conducting other cooperation for the purpose of facilitating early identification of offences (1 *(f)*)

Article 27, paragraph 2, further calls upon States parties to consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies. Most countries permit such cooperation under their domestic law (or by virtue of membership of INTERPOL). However, for States with no such agreement or arrangement in place, the second sentence of the paragraph provides legal authority for such cooperation:

> In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention.

Lastly, article 27, paragraph 3, calls upon States to endeavour to conduct law enforcement cooperation in order to respond to transnational organized crime committed through the use of modern technology.

For more information, see the UNODC legislative guides at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Tool 4.9 Bilateral and multilateral cooperation agreements or arrangements

Overview

This tool provides examples of promising bilateral and multilateral cooperation agreements and arrangements.

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 the collaboration of law enforcement and judicial agencies.

For more information on cross-border cooperation, refer to Tool 5.11.

INTERPOL model [bilateral] police cooperation agreement

INTERPOL has drafted a model police cooperation agreement for INTERPOL member States looking to increase their level of cooperation. Although drafted as a bilateral agreement, with some amendments the model could be used as a regional agreement.

The model agreement provides for a number of different cooperation methods. The widest possible cooperation is encouraged, but the model is drafted in such a way that the general framework can be adapted by States wishing to limit the ways in which cooperation can be carried out (for instance, by omitting provisions such as those dealing specifically with special investigative techniques), to limit the grounds for cooperation (for instance, by drafting an exhaustive list of offences covered by the agreement) or to limit both the ways in which cooperation is carried out and the grounds on which that cooperation takes place.

The model agreement contains explanatory notes for each article, to facilitate the understanding and amendment of the suggested provisions.

The model agreement is available at:
www.interpol.int/public/ICPO/LegalMaterials/cooperation/Model.asp

Childoscope

Child Focus, the European Centre for Missing and Sexually Exploited Children and the Institute for International Research on Criminal Policy collaborated to conduct a three-part research project, entitled Childoscope, aimed at promoting the integration of European policies and responses to missing and sexually exploited children. One outcome of this initiative was the drafting of model protocols to facilitate cooperation between civil society organizations and law enforcement authorities, with the intention of their serving as a basis for establishing official relationships between these organizations and authorities throughout European countries. The protocols reflect common European legal standards, and general principles of codes of practice for both law enforcement and civil society organizations.

More information about Childoscope is available at:

www.childoscope.net

The European Model Protocols of cooperation between law enforcement and civil society organizations are available at:

www.childoscope.net/2006/httpdocs/documents/Model%20Protocol.pdf

Promising practice

Treaty on European Union, Title VI, Provisions on police and judicial cooperation in criminal matters

The provisions of the Treaty on the European Union concerning cooperation in criminal matters call for closer cooperation between police forces, customs authorities, judicial authorities and other competent authorities in the member States, both directly and through Europol, for the purpose of preventing and combating crime, including trafficking in persons and offences against children.

The text of the Provisions on police and judicial cooperation in criminal matters is available at:

http://europa.eu/eur-lex/en/treaties/selected/livre107.html

Declaration of the OSCE Chiefs of Police Meeting (Brussels Statement)

24 November 2006

On cooperation among national police services to combat organized crime, participants in the OSCE Chiefs of Police Meeting:

- Reaffirmed their resolve to intensify efforts to combat organized crime and to introduce measures to continue and enhance cooperation in this field
- Underscored the need for a clear legal basis as a prerequisite for police cooperation at an intergovernmental level
- Underscored the crucial importance of information-sharing between law enforcement agencies and in that context pointed to the role of data protection and data processing, effective and clear privacy legislation and complementarity of legal procedures
- Recognized the need for effective cooperation among law enforcement officers and prosecutors at an international level
- Reaffirmed that the Convention against Transnational Organized Crime was the major international instrument in the fight against organized crime and called for further and enhanced cooperation with the States parties and UNODC to ensure its full and proper implementation
- Acknowledged the major role of INTERPOL and underscored the need for national police to use operational databases and tools of INTERPOL to their full potential
- Acknowledged the major role of UNODC and other international and regional organizations

The Brussels Statement is available in English, French, German, Italian, Russian and Spanish at:

www.osce.org/spmu/documents.html

Police Cooperation Convention for South-East Europe

Albania, Bosnia and Herzegovina, Moldova, Romania, Serbia and Montenegro, and the former Yugoslav Republic of Macedonia, entered into an agreement to enhance police cooperation and mutual assistance with respect to common security interests. In addition to general cooperation measures, the Convention addresses specific matters, including the exchange of information, liaison officers, training, cross-border surveillance, undercover investigations, joint investigation teams and cross-border cooperation. The Convention was signed on 5 May 2006.

The text of the Police Cooperation Convention for South-East Europe is available at:

www.eu2006.at/de/News/information/SEE_Police_Convention_270406_Final_text.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 Asian and Pacific region. The process started in 2002 when representatives of 38 States in that region attended the first Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. 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 the 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
- 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 Bali 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 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;

(g) Targeting people smugglers and traffickers.

For more information on the Bali Process, visit:
www.baliprocess.net

Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Subregion

In October 2004, a memorandum of understanding was signed by the Coordinated Mekong Ministerial Initiative against Trafficking. After a year of negotiations, ministerial representatives of 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 Asian and Pacific region and it clearly lays out methods and areas of policy and cooperation at both the national and international levels with regard to the legal framework, law enforcement, criminal justice, protection, the recovery and reintegration of victims and preventive measures.

In the areas of the legal framework, law enforcement and justice the six States have committed themselves 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:
www.no-trafficking.org/content/COMMIT_Process/commit_pdf/final%20commit%20mou.pdf

Cooperation Agreement to Prevent, Suppress and Punish Trafficking in Persons with an Emphasis on Trafficking in Women and Children

(Benin and Nigeria)

On 9 June 2005, the Governments of the Republic of Benin and the Federal Republic of Nigeria signed the Cooperation Agreement to Prevent, Suppress and Punish Trafficking in

Persons with an Emphasis on Trafficking in Women and Children with the aims of developing a common front against trafficking and protecting, rehabilitating and reintegrating victims of trafficking and promoting friendly cooperation between Benin and Nigeria to achieve these objectives. In the lead up to the signing of the agreement, three meetings were held between the two countries, with the support of UNICEF. These meetings (in March 2004, June 2004 and April 2005) enabled the preparation of the cooperation agreement and the establishment of a joint committee against trafficking in persons for the implementation of a joint action plan against trafficking. A notable feature of the cooperation agreement is that it provides for a joint security surveillance team to patrol the borders of both countries.

Source:
www.unicef.org/media/media_27309.html

Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa

The contracting parties of the Multilateral Cooperation Agreement are Governments of member States of the Economic Community of Central African States or the Economic Community of West African States. The Multilateral Cooperation Agreement entered into force in July 2006. Its aims, as set out in article 2, are:

- To develop a common front to prevent, fight, suppress and punish trafficking in persons by mutual cooperation at the international level
- To protect, rehabilitate and reintegrate victims of trafficking
- To give assistance to each other in the investigation, arrest and prosecution of traffickers through the respective competent authorities of the parties
- To promote friendly cooperation between the parties with a view to attaining these objectives

Article 14 of the Agreement contains measures for mutual assistance and article 16 sets out the required contents of requests for such assistance.

The Agreement can be found at:
www.ceeac-eccas.org/img/pdf/Multilateral_Agreement_Trafficking-1184251953.doc

Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa

In 2005, the Governments of Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, Nigeria and Togo entered into a cooperative agreement with respect to the trafficking of children. The agreement draws upon the bilateral agreements existing between Côte d'Ivoire and Mali (2000), Burkina Faso and Mali (2004), Senegal and Mali (2004), Mali and Guinea (2005) and Benin and Nigeria (2005), and other international and regional cooperative instruments. The agreement appropriately emphasizes the protection of child victims as its key priority. Article 8 of the agreement pledges contracting parties:

- To take the necessary steps to prevent and control trafficking of children
- To prepare and implement plans of action, regional and national programmes
- To establish national agencies to implement action plans
- To mobilize the necessary resources for the implementation of programmes and the proper functioning of bodies combating child trafficking
- To exchange detailed information on the identity of child victims, traffickers, sites of repatriation and operations
- To preserve the identity of the child and the confidentiality of information pertaining to the child
- To publish annual reports on persons convicted for child trafficking
- To incriminate and severely sanction any activity that promotes child trafficking
- To extradite, at the request of contracting parties, traffickers and their accomplices or to facilitate the process of handing them over
- To take the necessary steps to harmonize legislation on the control of child trafficking
- To develop specific programmes and permanent mechanisms to improve the registration of children at birth
- To develop partnerships with organizations of civil society and with technical and financial partners
- To produce an annual report on the state of implementation of the agreement

The Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa is available at:

www.cacao.ci/commun/documents/Accord_MultilateralVA_ministres_27072005.pdf

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 was 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. Guidelines on how to improve bilateral cooperation were developed and a memorandum of understanding was signed in 2004 by the Attorney General and Minister of Justice of Nigeria and the National Anti-Mafia Prosecutor of Italy. 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 for 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

Cooperation Agreement between Mali and Côte d'Ivoire on Combating the Transborder Trafficking of Children

In 2000, Mali and Côte d'Ivoire signed an agreement to enhance their anti-trafficking efforts, both nationally and bilaterally. The agreement sets out the obligations attaching to both the country of origin and the country of destination with respect to a child's repatriation and the sharing of relevant information in combating trafficking.

Agreement between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania for the Protection and Assistance of Child Victims of Trafficking

The Agreement seeks to create a cooperative spirit between the two States and sets out specific obligations with respect to prosecution, prevention and protection. With respect to prosecutorial obligations, article 3 of the Agreement specifies the strengthening of border official and police cooperation.

Memorandum of understanding between the Government of the Lao People's Democratic Republic and the Government of Thailand on cooperation to combat trafficking in persons, especially women and children

The Governments of the Lao People's Democratic Republic and Thailand signed a memorandum of understanding on 13 July 2005, addressing issues of prevention, protection, cooperation in the suppression of trafficking, and repatriation. The articles of the memorandum relating to cooperation particularly emphasize the need to cooperate at the cross-border level. Both parties committed themselves to promoting bilateral cooperation with respect to prosecuting traffickers, extradition and mutual assistance, and to affording each other wide mutual legal assistance.

Memorandum of understanding between the United Kingdom and the United States to improve international cooperation to combat human trafficking

The Association of Chief Police Officers and the UK Human Trafficking Centre entered into an arrangement with the Operations of Immigration and Customs Enforcement of the United States Department of Homeland Security on 6 June 2007. The memorandum is intended to enhance the capacity of United States and United Kingdom law enforcement agencies to share information and intelligence about criminal organizations with respect to human trafficking.

Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Bilateral Cooperation for Eliminating Trafficking in Women and Children and Assisting Victims of Trafficking

The bilateral cooperation agreement signed in 2003 by the Government of Cambodia and the Government of Viet Nam commits the two States to undertake joint training and to share information and evidence. Article 7 of the agreement states that the competent authorities in the two countries shall work in close cooperation, especially at the border, with respect to both domestic and cross-border trafficking of women and children.

Tool 4.10 Promising cooperative practice

Overview

This tool showcases some promising cooperative criminal justice practices.

Many States have developed a liaison capacity to support international cooperation with respect to transnational crime and organized criminal activities. The placement of officers specialized in trafficking in persons in such arrangements has proved to be an effective way of increasing cooperation and has the capacity to be more cost-effective than bilateral networks. Such mechanisms are being used by different States in different ways.

Promising practice

INTERPOL

INTERPOL, the largest international police organization in the world, has 186 member States. Its purpose is to support law enforcement agencies to fight crime globally. It secures global communications, offers data services for police and operates police support services. One of its five priority areas for action is combating trafficking in people. In 2006, INTERPOL created a human smuggling and trafficking message to provide a standardized format for easy information exchange. The message is accessible to authorized users of the I-24/7

global police communications system of INTERPOL. Among its key activities relating to trafficking, INTERPOL provides an intelligence clearing house on traffickers, to facilitate the identification of international links in investigations. Crime intelligence officers establish international networks of contacts in conjunction with INTERPOL National Central Bureaux and subregional bureaux.

For more information about INTERPOL, visit:
www.interpol.int

European Police Office

Europol is the European Union law enforcement organization. It aims to improve the effectiveness and cooperation of competent authorities in the member States in preventing and combating serious forms of international organized crime. The mission of Europol is to make a significant contribution to European Union law enforcement action against organized crime, with an emphasis on targeting criminal organizations. Europol supports the law enforcement activities of European Union member States by:

- Facilitating the exchange of information, in accordance with national law, between Europol liaison officers
- Providing operational analysis in support of operations
- Generating strategic reports and crime analysis on the basis of information and intelligence supplied to it
- Providing expertise and technical support for investigations and operations carried out within the European Union under the supervision and legal responsibility of the member States concerned
- Promoting crime analysis and harmonization of investigative techniques within the European Union

More information about Europol is available at:
www.europol.europa.eu/ and
http://europa.eu/scadplus/leg/en/lvb/l14005b.htm

ASEAN Chiefs of Police Conferences

Chiefs of police from each of the ASEAN member States take part in regular conferences and have agreed to work together to combat trafficking in persons. The objectives of the 25th ASEAN Chiefs of Police Conference, held in Bali, Indonesia, from 16 to 20 May 2005,

were to further enhance police professionalism, forge stronger regional cooperation in police work and promote lasting friendships among police officers of ASEAN countries. The conference, attended by delegates from Brunei Darussalam, Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam, adopted the following resolutions with respect to human trafficking:

- To enhance information exchange among member States on the identities, movements and activities of transnational criminal organizations involved in human trafficking
- To appoint, update and disseminate the contact points of each member country for the purpose of liaison and exchange of information on human trafficking
- To encourage member States to conclude bilateral or multilateral agreements on combating human trafficking and enhance cooperation on border control management

The joint communiqué on the conference can be viewed at:
www.aseansec.org/4964.htm

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 Eurojust, 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.

More information is available at:
http://eurojust.europa.eu/index.htm

European Judicial Network

In addition to Eurojust, the European Judicial Network has been established within the European Union to promote and accelerate cooperation in criminal matters, paying particular attention to the fight against transnational organized crime, including trafficking in people. The contact points in this network function as active intermediaries with the task of facilitating judicial cooperation between European Union member States. They also provide 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. The European Judicial Network was the first practical structured mechanism of judicial cooperation in the European Union to become truly operational. Its key principle is to identify and promote people in each member State who play a fundamental role in judicial cooperation with respect to criminal matters, with the purpose of ensuring the proper execution of mutual legal assistance requests.

For more information, visit:
www.ejn-crimjust.europa.eu/ and more specifically
www.ejn_crimjust.europa.eu/ejn_tools.aspx

Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime

The Southeast European Cooperative Initiative brings together 12 States of the Balkan region in an effort to combat organized crime. At the Regional Center in Bucharest, police and customs liaison officers facilitate information exchange between law enforcement agencies in the participating States. Requests for regional assistance are sent to the Center from the national office of each individual State through its liaison officer, who then disseminates them to the appropriate State liaison officers. The Agreement on Cooperation to Prevent and Combat Trans-border Crime was signed by member States of the Initiative in 1999 and entered into force in 2000.

Source:
www.secicenter.org

Jakarta Centre for Law Enforcement Cooperation

The Jakarta Centre for Law Enforcement Cooperation, located at the Indonesian National Police Academy, was established as a bilateral initiative with the Government of Australia. It has a capacity-building and operational support mandate to foster cooperation and encourage increased communication with and between regional law enforcement personnel throughout the Asian and Pacific region in combating transnational crime. The ultimate goal of the Jakarta Centre is to contribute to enhancing regional law enforcement capacity to manage multi-jurisdictional investigations of transnational crime in the region. Among its strategies to achieve this are:

- Strengthening law enforcement response capacity
- Strengthening investigation capability
- Contributing to the development of wider criminal intelligence skills and capacity to share and exchange criminal intelligence
- Strengthening domestic and international law enforcement partnerships and networks

In August 2006, UNODC released its computer-based anti-human-trafficking training modules (see Tool 2.14) for use by the Jakarta Centre in enhancing law enforcement capacity against trafficking.

More information about the Jakarta Centre is available at:
www.jclec.com

Southern African Regional Police Chiefs Cooperation Organization

The Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) is an international independent police organization in Southern Africa which liaises closely with INTERPOL. Its member States are Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe. In accordance with its constitution, the objectives of SARPCCO are:

1. To promote, strengthen and perpetuate cooperation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications;
2. To prepare and disseminate relevant information on criminal activities as may be necessary to benefit members to contain crime in the region;
3. To carry out regular reviews of joint crime management strategies in view of changing national and regional needs and priorities;
4. To ensure efficient operation and management of criminal records and efficient joint monitoring of cross-border crime, taking full advantage of the relevant facilities available through INTERPOL;
5. To make relevant recommendations to Governments of member States in relation to matters affecting effective policing in the Southern African region;

6. To formulate systematic regional training policies and strategies, taking into account the needs and performance requirements of the regional police services/forces;
7. To carry out any such relevant and appropriate acts and strategies for the purposes of promoting regional police cooperation and collaboration, as regional circumstances dictate.

In practice, its tasks are:

1. To make relevant recommendations to Governments in relation to:
   (a) Harmonization of legislation and accession and ratification of international conventions in matters relating to deportation, extradition, confiscation of proceeds of crime, repatriation of recovered exhibits;
   (b) Promotion of mutual assistance on criminal investigations, detection and apprehension of cross-border offenders;
   (c) Facilitation of the movement and attendance of witnesses to places of trial and any other matters which may become relevant from time to time;
2. To carry out any such relevant and appropriate acts and strategies for the purpose of promoting regional police cooperation and collaboration, as regional circumstances dictate.

More information about SARPCCO is available at:
www.interpol.int/Public/Region/Africa/Committees/SARPCCO.asp

Eastern Africa Police Chiefs Cooperation Organization

The Eastern Africa Police Chiefs Cooperation Organization (EAPCCO) was founded in Kampala during the first meeting of Eastern African police chiefs, held in February 1998. The meeting resolved to set up an institutionalized body after emphasizing the need for a collective effort to curb cross-border crime within the region. The EAPCCO constitution was signed in Khartoum on 20 June 2000 and came into force on 21 August 2002. The constitution of EAPCCO recognizes the INTERPOL Subregional Bureau in Nairobi as its secretariat.

From 20 to 22 June 2007, the first regional anti-trafficking conference in Eastern Africa was held in Uganda in the framework of UN.GIFT. The conference was organized by the UNODC Regional Office for Eastern Africa, together with EAPCCO through the INTERPOL Subregional Bureau. The conference was hosted by the Government of Uganda through the Ugandan National Police and brought together representatives of EAPCCO countries.

More information about EAPCCO can be found at:
www.interpol.int/Public/Region/Africa/SRBeasternAfrica.asp

More information about the regional anti-human trafficking conference in East Africa can be found at:

www.giftasia.in/index.php?option=com_content&task=view&id=139&Itemid=307

Australian Federal Police Law Enforcement Cooperation Program

The Australian Federal Police Law Enforcement Cooperation Program cooperates with foreign law enforcement agencies on transnational organized crime, including trafficking in persons. It is primarily focused on cultivating cooperative environments in the Asian and Pacific region and has established transnational crime teams in Thailand and Cambodia and established the Pacific Transnational Crime Network.

More information about the Australian Federal Police Law Enforcement Cooperation Program is available at:

www.afp.gov.au/international/liaison/LECP.html

Political and Security Programme of the Pacific Island Forum Secretariat

The Pacific Island Forum comprises 16 independent and self-governing States of the Pacific region. In October 2005, the Forum adopted a Pacific Plan to strengthen regional cooperation throughout these fragile island States. In support of that broader goal, the Political and Security Programme is primarily focused on law enforcement cooperation and building the capacity of law enforcement agencies to respond to transnational crimes.

More information about this initiative is available at

http://forumsec.org/pages.cfm/security

Pacific Islands Chiefs of Police

The Pacific Islands Chiefs of Police (PICP) is an organization consisting of 21 members (States and territories) representing some 75,000 police officers. PICP aims to provide a voice on law enforcement issues and raise awareness of them. It also aims to identify trends in transnational organized crime and develop strategies to combat them, contribute to training initiatives to develop the law enforcement capacity of the region, promote information-sharing and intelligence and share best practices across the region. PICP is a mechanism for interaction and cooperation throughout the region.

More information about the Pacific Islands Chiefs of Police is available at:

www.picp.org/index.html

Asian-African Legal Consultative Organization

The Asian-African Legal Consultative Organization was an outcome of the Bandung Conference held in Indonesia in April 1955. Among the purposes of the Organization is to serve as a forum for Asian-African cooperation and information exchange on legal matters. One of the items on its work programme is the establishment of cooperation against trafficking of women and children. In its resolution adopted on 6 July 2007 at its forty-sixth session (RES/46/S/8), the Organization urged its member States to become parties to the Organized Crime Convention and the Trafficking in Persons Protocol.

More information about the Asian-African Legal Consultative Organization is available at:

www.aalco.int

Task Force on Organized Crime in the Baltic Sea Region

The vision statement of the Task Force on Organized Crime in the Baltic Sea Region, adopted by the third Heads of Government Meeting in May 2006, is that it "acts as a regional best practice example in Europe for multidisciplinary operational law enforcement cooperation against organized crime".

Following a meeting of the Operative Committee of the Task Force in November 2003, the Expert Group on Illegal Migration and the Expert Group on Trafficking in Women were merged to form the Expert Group on Trafficking in Persons, consisting of experts from law enforcement authorities of member States, as well as INTERPOL and Europol.

The primary task of the Expert Group is to assess the situation with regard to trafficking in persons in the Baltic Sea Region and to coordinate and present national and international operations in response to it.

The experts meet regularly to discuss implementation of Task Force decisions. The Expert Group has also developed close contacts with the Network of Prosecutors General in the Baltic Sea States, Eurojust and the Task Force against Trafficking in Human Beings in the Barents Euro-Arctic Region.

More information about the Task Force on Organized Crime in the Baltic Sea Region is available at:

www.balticseataskforce.ee

Senior Experts Group on Transnational Organized Crime (The G8 Lyon Group)

The G8 has been cooperating to address international crime since its 1995 Summit. The Lyon Group is a group of senior experts mandated to enhance law enforcement and judicial cooperation. It was tasked to review and assist international agreements and mechanisms pitted against transnational organized crime and make recommendations to strengthen them. The Lyon Group presented 40 operative recommendations, which were revised in 2002 to become the "G8 recommendations on transnational crime". They comprise principles, best practices and actions which represent the G8 commitment to improving its response to transnational organized crime.

Source:

http://ec.europa.eu/justice_home/fsj/crime/structures/fsj_crime_structures_en.htm

Black Sea Economic Cooperation Organization Working Group on Cooperation in Combating Crime, in Particular in its Organized Forms

The Black Sea Economic Cooperation Organization was formed by 11 Governments in 1992 to foster peace, stability and prosperity among member States. In 1998, members of the Black Sea Economic Cooperation Organization signed a cooperation agreement with respect to combating crime, in particular in its organized forms. This was followed in subsequent years by two protocols and the formation of the Working Group on Cooperation in Combating Crime, in Particular in its Organized Forms.

More information about the cooperative mechanisms of the Black Sea Economic Cooperation Organization against organized crime are available at:

www.bsec-organization.org/areas_of_cooperation.aspx?ID=Cooperation_in_Combating_Crime

chapter 5

LAW ENFORCEMENT AND PROSECUTION

In order for law enforcement responses to be effective, they must be holistic, taking into consideration a range of issues, from the rescue of victims and the protection of witnesses to prosecution of traffickers. The challenges involved must be understood before they can be effectively responded to (see Tool 5.1).

In effect, there are three major investigative approaches, which are not mutually exclusive (see Tool 5.2):

- Reactive investigation (victim led, see Tool 5.3)
- Proactive investigation (intelligence generated, police led, see Tool 5.4)
- Disruptive investigation (police led, where other options are not appropriate, see Tool 5.5)

Parallel financial investigations (see Tool 5.6), the seizure of assets and the confiscation of the proceeds of crime (see Tool 5.7), special investigative techniques (see Tool 5.8) and the investigation of crime scenes (see Tool 5.9) can also produce appreciable results, in particular when these methods are applied systematically by joint investigation teams (see Tool 5.10). Given that trafficking in persons often takes place across borders, law enforcement measures must also be cross-border (see Tool 5.11).

Efficient law enforcement and prosecution strategies are based on solid intelligence and on effective exchange of intelligence between agencies and between jurisdictions, requiring different types of intelligence to be gathered (see Tool 5.12). The role played by prosecutors during the process of bringing traffickers to justice must be guided by high standards of conduct and active participation (see Tool 5.13).

There are many issues involved in dealing with trafficked victims, witnesses of trafficking and traffickers themselves. Often it becomes necessary to obtain the collaboration of offenders in order to secure an advantage (see Tool 5.14). Investigators and prosecutors have a duty to respect and protect the rights of victims of trafficking. Tool 5.15 and Tool 5.16 describe this duty and address the need to ensure the safety of victims during an investigation.

Direct witnesses of a crime are always a crucial element of a successful prosecution and offering them effective protection is an essential condition for effective intervention. The protection of witnesses is addressed in Tool 5.17 and Tool 5.18. The special considerations which apply to the protection of child witnesses are discussed in Tool 5.19.

Lastly, training resources for building law enforcement capacity against trafficking in persons are recommended in Tool 5.20.

INVESTIGATION OF TRAFFICKING IN PERSONS

Tool 5.1 Overview of challenges in investigating human trafficking
Tool 5.2 Snapshot of investigative methodologies
Tool 5.3 Reactive investigation
Tool 5.4 Proactive investigation
Tool 5.5 Disruptive investigation
Tool 5.6 Parallel financial investigation
Tool 5.7 Seizure of assets and confiscation of proceeds of crime
Tool 5.8 Special investigative techniques
Tool 5.9 Crime scene investigations
Tool 5.10 Joint investigation teams
Tool 5.11 Border control measures
Tool 5.12 Intelligence gathering and exchange

PROSECUTION OF TRAFFICKERS

Tool 5.13 Prosecution of traffickers

PROTECTION AND TREATMENT OF VICTIMS, WITNESSES AND OFFENDERS

Tool 5.14 Seeking the collaboration of offenders
Tool 5.15 Guidelines on human rights and human trafficking in the context of law enforcement
Tool 5.16 Protecting victims during investigations
Tool 5.17 Witness protection
Tool 5.18 Witness protection during and after the prosecution and trial
Tool 5.19 Special considerations relating to the protection of child witnesses

LAW ENFORCEMENT TRAINING TOOLS

Tool 5.20 Training tools for law enforcement offices and the judiciary

INVESTIGATION OF TRAFFICKING IN PERSONS

Tool 5.1 Overview of challenges in investigating human trafficking

Overview

This tool summarizes a recent article written about the challenges of investigating human trafficking in the United States and the need for effective investigation to secure successful prosecution.

An effective law enforcement response to trafficking is not limited merely to the application of law in individual cases, but has relevance to all dimensions of the complicated facets of trafficking. Effective law enforcement response also depends on the participation of all levels of society, from local communities and non-governmental organizations to migration officials and prosecutors.

"Investigating human trafficking: challenges, lessons learned and best practices"

by Kevin Bales and Steven Lize
***FBI Law Enforcement Bulletin*, April 2007, Vol. 76, No. 4**
(United States Department of Justice, Federal Bureau of Investigation)

In the context of the United States, the authors considered the question: "How can investigations and subsequent prosecutions of traffickers be effectively increased?" Their key findings and recommendations are of value to investigators of human trafficking everywhere.

General considerations

- Initial actions taken in investigation are crucial to the ultimate success of prosecutions.
- Human trafficking investigations require careful treatment of victims and witnesses, upon whose testimony the prosecution depends.
- The process of interviewing the victim, collecting corroborating evidence and investigating perpetrators is more effective when the victim has continued presence in the country and accesses care and protection from a service provider as early in the process as possible.
- Successful law enforcement intervention requires rapid, sustained response. After initial interviews of suspected victims, witnesses and where possible, perpetrators, investigators begin collecting information and corroborating evidence to build the charges and the case.

Victim and witness cooperation

- The most successful results involve agents with experience in human trafficking cases, who show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence.
- Gaining the cooperation of victims as witnesses can be challenging. Often, because of their distrust of police in their home countries, trafficking survivors fear law enforcement agencies and are concerned that they will be treated as criminals, incarcerated or deported. These fears must be overcome in order for victims to become cooperating witnesses.
- Human trafficking survivors often do not identify themselves as victims. Law enforcement agents may therefore have difficulty in identifying victims among detainees and separating them from perpetrators.
- Investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing compassion and making them feel comfortable.

Agency roles and challenges

- Human trafficking investigation requires cooperation among many agencies. Investigators must consider their questioning strategy to elicit information about captivity, forced work, coerced sexual acts and abuse by perpetrators.
- Investigators may consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses, and consult with specialist NGOs that provide services and advocacy to trafficked persons. Other agencies, such as those dealing with labour, can assist law enforcers in the process of investigating and prosecuting.

Evidence collection

- Where investigators know where to look, they can gather evidence and locate victims and perpetrators. Traffickers use ordinary methods of commerce for activities in support of their crimes; reviewing records can provide valuable evidence. Other investigative methods such as surveillance, analysis of trash and correspondence, undercover operations and reviews of wire transfer records (if applicable), can also reveal pertinent information.
- Investigators are often required to work in settings unfamiliar to them and in communities which distrust law enforcement authorities (such as ethnic neighbourhoods which are socially and culturally difficult for investigators to access). Organizations experienced in working with law enforcement agencies can be an important resource during investigations in settings where trafficking occurs. The nature of these crimes requires appropriate social and cultural orientation to effectively gather criminal intelligence and arrest perpetrators. Ethnic community groups, immigrants' and workers' rights NGOs can assist in gaining access to culturally insulated communities. Law enforcement agencies should seek only the assistance of organizations with a proven record of assisting trafficking victims and collaborating with investigating authorities.

Interviewing considerations

- Investigators should work together when interviewing victims and witnesses to avoid having multiple interviews on record with conflicting information.

- Even when an interview has established trust with victims and witnesses, they may never provide a full account in a single interview. Aside from the trauma they have suffered, other sociological and psychological barriers impede the process, including socio-cultural differences, language and gender.
- Gender issues significantly affect the interviewer's capacity to obtain information. Trafficked women and children frequently suffer sexual abuse and violence and may be reluctant to seek assistance because of the shame and stigmatization which may flow from disclosing their experiences. Men, particularly those from a culture with a traditional view of masculinity, may not want to admit their victimization because they fear that their disclosure of losing control of their lives may lead to perceptions of diminished masculinity. For these reasons, men and women may perhaps be more willing to talk to law enforcement personnel and service providers of the same gender.
- Investigators who are fluent in the language of the person they are interviewing and have cultural affinity with the person may have more success.

The full article is available at:
www.fbi.gov/publications/leb/2007/april2007/april2007leb.htm#page_24

Tool 5.2 Snapshot of investigative methodologies

Overview

This tool provides readers with a very brief introduction to the two key operational methodologies in counter-trafficking investigations.

There are two main alternative approaches to conducting anti-trafficking methodologies:

- Reactive investigation (discussed in more detail in Tool 5.3)
- Proactive investigation (discussed in more detail in Tool 5.4)

Reactive investigation

Reactive investigation is used when investigators receive information of criminal activity and there is an urgent need to intervene. In such cases, too great a delay in response can result in serious consequences for victims.

Reactive investigation is weaker than proactive investigation for several reasons:

- Victims may initially provide information but later refuse to cooperate
- Informants may provide information which requires immediate response, enabling those at higher levels of the criminal organization to evade arrest
- Reactive measures may mean that evidence is lacking or not able to be collected

There are three responses which must be applied when the situation of a victim creates the need for a reactive response:

- Immediate intervention
  - To rescue victims
  - To prevent the procurement of other victims
  - To secure evidence
- Use of information
  - To conduct proactive enquiries
  - To disrupt trafficking practices
  - To develop arrest strategies
- Use of intelligence
  - To plan and commence intelligence-gathering operations
  - To assess premises to gather information about locations, etc.
  - To reduce risks involved in subsequent arrest operations

Reactive investigation is discussed in further detail in Tool 5.3.

Proactive investigation

Proactive investigation is conducted in response to information on an ongoing criminal activity obtained through intelligence-gathering or from reports of witnesses. In these situations, there is no imminent threat to witnesses, meaning that investigators do not have to respond immediately. Investigators can therefore plan their activities to collect evidence according to operational plans and resources.

In proactive responses, investigators:

- Can decide where and when to start investigative operations
- Can control the direction of the investigation
- Can remain in control of investigations until the final outcome

Proactive investigation is more effective because the investigators control the investigation. If the investigation is conducted successfully, traffickers will not know when, how or where they are being investigated.

Proactive investigation is discussed in further detail in Tool 5.4.

Tool 5.3 Reactive investigation

Overview

This tool introduces readers to reactive, victim-led investigations instigated as a result of a complaint from one or more victims.

A reactive investigation is often necessary, even if it does not always lead to a successful action in terms of the 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 pro-active 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.

Reactive investigations are triggered by victims' complaints.

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

- Immediate intervention against the traffickers in order to rescue other victims and/or to prevent further potential victims from being entrapped and/or to secure evidence that may otherwise be lost
- 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 concerning 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 if arrest is delayed the major players in any network will often be warned and will 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 compromise of the surveillance or undercover officers or a sudden increase in the risk level to the victims. Therefore, it is advisable to have a skeleton arrest plan prepared and ready to be implemented from an early stage of an 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 simultaneously to 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 the intervention requires and time permits the raid of a premises, detailed planning of the raid should be carried out. It is worth considering deploying an undercover officer before launching the raid and proceeding with the arrest of the suspects. This will provide the 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 number 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.

Recommended resources

Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking

(International Organization for Migration and the Austrian Federal Ministry of the Interior)

Chapter 3 of this resource book, on investigative methods, presents practical guidelines and good practice for combating child trafficking. The chapter mainly focuses on risk assessment (strategic and operational), investigative methods (proactive/intelligence-led investigation, reactive/victim-led investigation, disruptive investigation) and bilateral and international cooperation.

The Resource Book is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=5787

Criminal Justice Assessment Toolkit

(United Nations Office on Drugs and Crime)

The UNODC Criminal Justice Assessment Toolkit offers some insight into law enforcement practices in its section on policing.

The Criminal Justice Assessment Toolkit is available at:
www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html

Tool 5.4 Proactive investigation

Overview

This tool provides examples of multi-agency, intelligence-led approaches that bring together law enforcement, the intelligence community and various Government departments.

The complexity of the investigation of human trafficking cases necessitates long-term, sustained efforts based on solid intelligence gathering and analysis and multi-agency collaboration. Law-enforcement and prosecution strategies should reflect the geographical, structural and commercial components that make up the crime of trafficking in persons. The geographical and structural components can be expressed as follows:

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

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 (obtaining identity and travel documents and arranging transit)
- 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.

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 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 victims of trafficking who may not be able or may not wish to testify against their exploiters.

The proactive option provides the means whereby law enforcement agencies can take steps to combat 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.

Promising practice

Operation Paladin Child (United Kingdom)

"Operation Paladin Child" was conducted in 2004. This initiative involved the recording of the personal details of every child arriving at border posts throughout the United Kingdom who was assessed as possibly being at risk of trafficking or exploitation.

Each child was issued with an identification number, had his or her photograph taken and was asked to say where he or she would be living in the United Kingdom. If the child could not be located at the address given during subsequent visits by social services staff, an investigation would be opened. Details of the adults welcoming unaccompanied children at airports or ports were also recorded.

Source: *The Job*, vol. 28, Issue 953, 13 May 2005.

More information about the work of the Metropolitan Police of London can be found at:

www.met.police.uk

Pentameter 2

Pentameter 2 (UKP2) is a law enforcement and intelligence gathering project aimed at rescuing and protecting victims of trafficking for the purpose of sexual exploitation and at identifying, disrupting, arresting and bringing to justice those involved in criminal activity.

Although the law enforcement activity will focus on trafficking for sexual exploitation, UKP2 will also be used to collect information and intelligence about all forms of trafficking (including for labour exploitation and child trafficking) and raise awareness of the issue. For information about awareness-raising efforts under the Pentameter 2 initiative, see Tool 9.8.

More information about Pentameter 2 can be found at:
www.pentameter.police.uk

Anti-Trafficking Task Force (Myanmar)

The Ministry of Human Affairs is the lead ministry working against human trafficking in Myanmar. Within the Ministry, the Department on Transnational Crime is responsible for trafficking issues and established the Anti-Trafficking Unit in June 2004 to investigate trafficking offences. The 32 police officers who initially staffed the unit received specialized training under the Australian-funded Asia Regional Cooperation to Prevent People Trafficking project (now the Asia Regional Trafficking in Persons project in its subsequent phase of operation). The unit initiated a number of successful trafficking investigations and in January 2006 established nine local anti-trafficking task forces in trafficking hot spots. These task forces act as focal points for investigations and are potential focal points for international colleagues seeking cross-border collaboration with anti-trafficking law enforcers in Myanmar.

Recommended resources

There are several resources which may be of assistance with respect to investigation. For more information on the following and other resources, refer to Tool 5.20.

Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking (also recommended in Tool 5.3 above)

(IOM and the Austrian Federal Ministry of the Interior)

Source: The Resource Book is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=5787

Assistance for the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003); Training Manual

(UNODC)

Available at:
www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Anti-Trafficking Training Material for Frontline Law Enforcement Officers (2007)

(ICMPD)

The publication is available free of charge to actors in the field of anti-trafficking. For more information, see Tool 5.20 and visit:
www.anti-trafficking.net

Regional Standard for Anti-Trafficking Police Training in South Eastern Europe (2003)

(ICMPD)

For more information, see Tool 5.20. These training materials are available at:
www.icmpd.org/830.html?&tx_icmpd_pi2[document]=246&cHash=2dcb2e35f4

Regional Standard for Anti-Trafficking Training for Judges and Prosecutors (2004)

(ICMPD)

For more information, see Tool 5.20. These training materials are available at:
www.icmpd.org/830.html?&tx_icmpd_pi2[document]=249&cHash=445c9d8c56

Law enforcement best practice manuals
(UNDP, Romania)

These manuals are referred to in Tool 5.20 and can be consulted at:
www.undp.ro/governance/Best%20Practice%20Manuals

Tool 5.5 Disruptive investigation

Overview

This tool looks at some of the main disruptive options available to law enforcement agencies.

Where neither the reactive nor the proactive approach is possible, it may be useful for law enforcement personnel to resort to a number of tactics to disrupt human trafficking operations and force traffickers to reveal themselves.

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; 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, disruptive 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. Education campaigns as such are purely preventive measures designed to achieve long-term benefits by educating potential victims of the risks inherent in the crime of trafficking, but they can also play a vital role in disruptive activity in certain circumstances. It may be possible to establish liaison with the organization conducting a programme (e.g. a non-governmental organization carrying out a campaign) in order to include current thematic intelligence and facts in the programme content.

Tool 5.6 Parallel financial investigation

Overview

This tool discusses the financial aspects of the crime of trafficking in persons.

Financial investigation plays a crucial role in successful investigation of trafficking in persons. Early liaison should be established with the office that carries out financial investigation, to make it a part of counter-trafficking response.

Follow the money and you will find the trafficker.

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 travel, expenditure on luxury items like cars and jewellery, and leisure activities, for example frequenting restaurants and casinos, all require means and methods of purchase.

It is advisable to conduct proactive financial investigation both during the pre-arrest investigative phase and in the post-arrest phase.

Financial investigation in the pre-arrest phase

Use of parallel financial investigation is considered against the risk of disclosing the law enforcement operation. However, asset confiscation legislation often contains punitive provisions for any individual or institution that discloses the fact of a financial enquiry to an account holder. This reduces the security risks that are always attached to proactive enquiries in the pre-arrest phase.

In the pre-arrest phase, financial investigation is particularly valuable for various reasons:

- The investigation of financial transactions and the analysis of the results will often provide important information that can be used to ensure that the operation progresses more efficiently (e.g. investigation of the purchase of travel tickets may reveal details of travel arrangements, and analysis of credit card expenditure can reveal airlines, hotels, restaurants or other venues regularly used by traffickers. This information can be the basis for the allocation of surveillance resources).
- Pre-arrest financial investigation is designed to identify the amount and location of criminal assets derived from the crime.
- It is possible to coordinate the arrest phase with the financial sequestration procedures in order to arrive at the optimal situation of synchronized arrest of traffickers and sequestration of their assets.
- Investigators get double value from the same evidence: evidence of large-scale financial gain and expenditure supports prosecution and that same evidence forms the basis for post-conviction assets confiscation proceedings.
- The ability of law enforcement agencies to identify, investigate, sequestrate and confiscate assets derived from trafficking sends a message to criminals that trafficking is not high profit/low risk.

Source: UNODC training manual on the implementation on the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003), available at:

www.unodc.org/pdf/ecowas_training_manual_2006.pdf

Tool 5.7 Seizure of assets and confiscation of proceeds of crime

Overview

This tool discusses the requirements prescribed by article 12 of the Organized Crime Convention in relation to seizure of assets and confiscation of proceeds of crime. Implementation of article 12 is essential to facilitate the effective international cooperation discussed in Tool 4.6.

Cooperation mechanisms in different legal systems

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.

- A property-based system allows for confiscation of property found to be proceeds or instrumentalities (used for the commission) of crime.
- A value-based system is concerned with 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).
- Other variations relate to the range of offences with respect to which confiscation can take place, the requirement of a prior conviction of the offender, the required standard of proof, the conditions under which third-party property is subject to confiscation and the power to confiscate the products or instrumentalities of crime.

In short, how a confiscation must be authorized and executed, what can be confiscated and how much proof is required to establish a link between certain property and crime are all matters that vary considerably among States. This poses complications for international cooperation in relation to assets forfeiture and makes confiscation of the proceeds of crime much more difficult. For more on information this topic, see Tool 4.6.

Confiscation under article 12 of the Organized Crime Convention

To the end of streamlining cooperative processes, article 12 of the Organized Crime Convention attempts to bring States into conformity with one another to the extent possible within their respective legal systems. Although the article acknowledges the variation in the way that different legal systems carry out obligations domestically, States are nonetheless called upon to have a broad ability to comply with the provisions of the article. If this article is not implemented, States will be unable to respond to international requests to confiscate.

Article 12 requires States parties to have the necessary legal framework to permit:

- The confiscation of proceeds of crime derived from offences covered by the Convention or property the value of which corresponds to that of such proceeds (art. 12.1 *(a)*)
- The confiscation of property, equipment or other instrumentalities used in or destined for use in offences covered by the Convention (art. 12.1 *(b)*)
- The identification, tracing and freezing and/or seizure of the proceeds and instrumentalities of crime covered by the Convention, for the purpose of eventual confiscation (art. 12.2)
- The application of confiscation powers to transformed or converted property and proceeds intermingled with legitimately obtained property (to the value of the proceeds in question) and to benefits or income derived from the proceeds (art. 12.3-5)
- The power of courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. Bank secrecy shall not be a legitimate reason for failure to comply (art. 12.6).

Please see Tool 4.6 in relation to international cooperation for the seizure of assets and confiscation of proceeds of crime.

See also the UNODC legislative guides at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Tool 5.8 Special investigative techniques

Overview

This tool describes the provisions of article 20 of the Organized Crime Convention, relating to special investigative techniques, and introduces the use of informants, surveillance and undercover operations.

Proactive law enforcement strategies and complex investigations often involve special investigative techniques. When a case requires international cooperation, differences in the laws regulating the use of these techniques can become a source of difficulty. Major efforts are made in the process of implementing the Organized Crime Convention and other international initiatives to identify and remedy these difficulties. The effectiveness of techniques such as electronic surveillance, undercover operations and controlled delivery cannot be overemphasized. Technological advances make it possible to conduct investigations of sophisticated, often transnational criminal organizations, without the physical presence of foreign investigating officers (for example, through interception of telephone calls and satellite surveillance).

Article 20 of the Organized Crime Convention

Special investigative techniques

Article 20, paragraph 1, of the Organized Crime Convention specifically endorses the investigative techniques of:

- Controlled delivery (although for ethical reasons and the primary concern of the safety of actual and potential victims, controlled delivery is not appropriate in cases of trafficking in persons)
- Electronic and other forms of surveillance
- Undercover operations

Article 20, paragraph 2, encourages States to conclude appropriate bilateral or multilateral agreements or arrangements for using special investigative techniques in the context of international cooperation.

Article 20, paragraph 3, states that in the absence of such an agreement or arrangement, decisions to use special investigative techniques at the international level should be made on a case-by-case basis and take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by States parties.

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 prosecutions domestically and (through the provision of mutual legal assistance to other States parties) internationally. In many cases, less intrusive methods simply will not prove effective, or cannot be carried out without unacceptable risks to those involved.

A key consideration in using special investigative techniques in operations relating to trafficking in persons is the risk posed to the victim(s) by those techniques. There must be an intervention plan in the event that evidence emerges that a victim is being harmed or is likely to be harmed.

Use of informants

An informant is a person who provides information to the police about a crime. An informant may be a member of the public, a victim of crime, a criminal or a police officer. In investigations of trafficking in persons, informants can be used to provide information about:

- The structure and nature of the criminal organization
- Whether potential trafficking victims are at certain premises
- When victims are being moved and where they are being moved to
- The money trail of trafficking in persons (how much money is being paid, where is it being paid from and to, what is the money being used for?)
- Other matters relating to the crime of trafficking

The process of trafficking involves many people—networks are often large and traffickers may come into contact with many people; each one of these people is a potential informant.

Special considerations apply to the use of each type of informant. Some informants are able to provide information from the heart of a criminal organization and can be given specific tasks to find specific information which they can provide efficiently and cost effectively. However, in recruiting and using informants, consideration must be given to the safety of the informant and any threat posed to actual and potential victims of trafficking in using them. Protection of the informant's identity is essential. In selecting and using informants, consideration must also be given to the motives for providing information to law enforcers; some of those motives may be unethical, unlawful or even prejudicial to the success of law enforcement operations. Some motives may lead to informants and the information they provided being discredited in court, thereby undermining the prospect of successful prosecutions.

The use of informants must be carried out in compliance with national laws. The transnational nature of trafficking in persons means that investigators should be familiar with any relevant legislation in their own jurisdiction and in the jurisdictions with which they are cooperating.

Surveillance

Electronic surveillance in the form of listening devices or the interception of communications performs a similar function to that of undercover operations 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. Investigators should always bear in mind that traffickers are often aware of surveillance techniques. Surveillance should always be conducted carefully and creatively.

Where investigators become aware through surveillance that victims are being harmed, they are obliged to intervene.

When might surveillance be used in trafficking investigations?

- To develop intelligence
- In proactive investigations
- To assist in the planning and monitor the impact of disruptive investigation
- In some circumstances, in reactive investigation
- When a victim is being interviewed, surveillance may be appropriate to prevent the flight of suspects before their arrest, to corroborate what the victim is saying or to find out whether others are at risk

Considerations before commencing surveillance operations

- What are the potential risks?
- What tactics will be used?
- Have specialists and local law enforcers been briefed? Should local law enforcers be briefed? Is there a risk that they are corrupt and will jeopardize the operation? What if there are no specialists?
- Are targets likely to be aware of surveillance?
- What languages are spoken by the targets of surveillance?

Undercover operations

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. Undercover operations should only be carried out by well-managed and properly trained staff. Staff should have training which extends to:

- The definition of trafficking in persons in the relevant jurisdiction (so that undercover operatives can identify and obtain evidence)
- Other laws relevant to trafficking
- Defences which have been successfully used in relation to trafficking (so undercover operatives can find evidence which substantiates or disproves defences)
- Commercial purposes of trafficking (to help plan objectives for the operation and to guide the reporting framework to identify new objectives)
- Mechanisms used by traffickers to control victims (so operatives understand that force or threats may not always be present, that control mechanisms may change and that a person may have been trafficked even though they were only partially deceived)

The purpose of undercover policing is to:

- Determine the nature and extent of criminal activities
- Identify the people involved
- Obtain evidence that allows offenders to be prosecuted

The safety of undercover agents is a paramount principle in planning and conducting undercover operations. As with all investigative techniques, the risks posed to agents, victims and their families must be considered in planning operations and throughout their execution.

For more information on special investigative techniques, see the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Tool 5.9 Crime scene investigations

Overview

This tool discusses the investigation of crime scenes.

What is a crime scene?

A crime scene is any physical scene, anywhere, that may provide potential evidence to an investigator. It may include a person's body, any type of building, vehicles, places in the open air or objects found at those locations. "Crime scene examination" therefore refers to an examination where forensic or scientific techniques are used to preserve and gather physical evidence of a crime.

Every contact leaves a trace!

What can constitute evidence?

A fundamental principle of forensics is that every contact leaves a trace. This may be contact of a person with a person, contact of a person with a vehicle or location, or of a vehicle with a location etc. Forensic investigators identify those traces and analyse them to explain what has happened. Evidence at crime scenes may include:

- Biological samples such as DNA from blood, semen, saliva and breath, hair, fingerprints and body part prints, urine, teeth
- Fibres such as pieces of material torn from clothing, or pieces of weapons broken during an attack
- Photographs, videos, drawings and plans
- Documentary evidence such as receipts, travel tickets or bank statements

Some crime scene investigation techniques are complicated and resource demanding, and may not be available to all investigators. It is important to note that even very simple actions—such as taking photographs of victims and scenes or making drawings and plans of premises—can significantly improve the chances of successful, fair prosecution. Even where no prosecution eventuates from the investigation, the forensic evidence gathered can support future anti-trafficking activities.

Securing the crime scene

A very simple action that investigators in any country can take is to make sure their staff are aware of the need to secure a crime scene. Investigators should do all they can to ensure that scenes (including the victims as well as the locations and the evidence at that location) are not interfered with, and to allow adequate time to strategize the "forensic examination". Interference—leading to "forensic contamination"—can be avoided by simple measures

- Controlling access to scenes
- Covering scenes
- Keeping records of everyone who has had access to a scene
- Taking fingerprints and DNA samples from staff before they are allowed to get to a scene
- Providing guidance in the packaging of recovered material, to prevent deterioration or contamination

Organization of crime scene investigation

The recovery, transport, storage and analysis of samples from crime scenes must be organized to include the following elements:

- Samples should be obtained by appropriately trained staff. Staff conducting medical examinations will need to be highly trained; other examinations will require only basic training.
- Staff should be provided with appropriate equipment, including health and safety clothing, bags, boxes and bottles to store samples and material, and labels and record sheets to identify them clearly.
- Appropriate and secure storage facilities should be provided where material is held before it is taken for further analysis, and places of analysis should be clean and have procedures in place to protect samples and materials.
- Material should be transported in a way that does not allow contamination; there should be a system of tracking samples by recording who placed them in storage, who removed them and who received them for analysis.

For more information on planning crime scene investigations, please refer to the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Tool 5.10 Joint investigation teams

Overview

This tool describes the main aspects of joint proactive operations and explains the main steps involved in establishing a joint investigation team.

In certain 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.

Article 19 of the Organized Crime Convention

Joint investigations

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 article provides for the granting of legal authority to conduct joint investigations, prosecutions and proceedings on a case-by-case basis, 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.

Promising Practice

Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000)

Within the European Union, steps have been taken for the creation by two or more member States of joint teams to deal with criminal organizations operating across borders.

The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union 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 the centralized coordination of operations. The concept of introducing joint investigations is a positive development but a difficult process in practice, presenting a number of legal, administrative, economic and practical problems.

The European Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union is available at:

http://ec.europa.eu/justice_home/doc_centre/criminal/acquis/doc_criminal_acquis_en.htm

For more information about joint investigation teams in the European Union, visit:

http://europa.eu/scadplus/leg/en/lvb/l33172.htm

National legislation

Please see the examples of national legislation referred to below:

Mutual Assistance in Criminal Matters Act 1987 (Australia)

www.austlii.edu.au/au/legis/cth/consol_act/maicma1987384

Criminal Code (RS, 1985, C-46) (Canada)

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

Code of Criminal Procedure (France)

www.legifrance.gouv.fr

Regulation of Investigatory Procedures Act 2000 (United Kingdom)
www.hmso.gov.uk/acts/acts2000/00023--d.htm

Criminal Justice (Joint Investigation Teams) Act 2004 (Ireland)
www.oireachtas.ie/viewpda.asp?DocID=3124&CatID=87&StartDate=01%20January%202004&OrderAscending=0

For more examples, see:
www.legislationline.org

For other promising practice, see Tool 4.10.

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 trafficking 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 offer the best prospect of securing sufficient quality evidence upon which to base a human trafficking prosecution. In many cases, the State of destination is the State concerned in this context. However, it does not necessarily follow that the prosecution must take place within the jurisdiction of that State. Subject to extradition laws and the circumstances of the case, investigators from the States of origin, transit and destination can implement a pre-agreed, proactive joint operation whereby the evidence is collected simultaneously 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 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 optimal 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 others, the decision rests with the prosecutor or examining magistrate. In some States, a formal letter of request may be required 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 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 sexual exploitation 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.

Promising practice

Terra Promessa

In 2006, Polish and Italian police dismantled a network trafficking men for the purpose of forced labour from Poland to Italy. Around 600 men are believed to have been recruited by means of newspaper and Internet advertisements and forced into "debts" through transportation and accommodation costs. The men were kept in barracks and watched by armed guards, and forced to work up to 15 hours a day for approximately 1 euro per hour, despite having been offered between 5 and 6 euros per hour.

A parallel investigation was conducted by the Italian and the Polish police, with the assistance of INTERPOL and Europol. The operation was coordinated by a special Italian gendarmerie unit located in Rome and by the Central Unit for the Fight against Trade of Human Beings, located at the National Police Headquarters in Warsaw. INTERPOL and Europol assisted in the exchange of information.

The operation, entitled "Terra Promessa" was carried out at the place of destination in Italy and in the regions of origin in Poland. Arrests of people involved in the trafficking network (for trade of human beings, deprivation of freedom, use of physical force and threats) were made in both Italy and Poland. The police of both countries also worked in cooperation in gathering information and evidence in the lead-up to the ultimate arrest of traffickers and the liberation of trafficking victims.

Tool 5.11 Border control measures

Overview

This tool reviews provisions of the Trafficking in Persons Protocol relevant to cross-border measures and offers examples of promising practice.

There are a number of measures included in the Trafficking in Persons Protocol 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.

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. For more information about cooperation between States, refer to Tools 4.7 to 4.10.

Strengthening border controls and cooperation across borders

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 countries. Strengthening measures include making border controls more effective and preventing 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).

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, take the necessary measures to provide for sanctions in the case of violation.
- An important additional recommendation of 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:

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 of 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 on information provided in the document itself.

Promising practice

One example of such technology 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.

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

Carrier sanctions

A number of basic measures recommended to help control the use of public carriers by traffickers are provided for in article 11 of the Trafficking in Persons Protocol.

Article 11 of the Trafficking in Persons Protocol

> 2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
>
> 3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of 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 the travel documents required for entry into the receiving State.

States are obliged to ensure that commercial carriers are required to ascertain that all passengers possess the necessary travel documents required for entry into the destination State and that failure to do so results in appropriate sanctions—these are called "carrier sanctions".

Through this article, the Trafficking in Persons Protocol intends to prevent the use of commercial carriers as a means of transport in the trafficking of persons, by making it more difficult for traffickers to use conventional means of transport in the commission of their crime. These provisions are identical to the corresponding provisions of the Migrants Protocol. The implementation of such provisions may differ from country to country (depending on the means preferred by traffickers) but the underlying domestic legislation enacted to give effect to these provisions will remain the same.

Drafters of legislation to implement the requirements of article 11, paragraphs 2 and 3, should give consideration to the following points:

- The basic obligation to be placed on carriers is to ascertain basic possession of whatever documents may be needed to enter the State of destination—there is no obligation to assess the authenticity or validity of the documents, or whether they have been validly issued to the person who possesses them.
- The Protocol requires that liability be attached to carriers for not having checked the documents as required; States may attach liability to carriers for having transported undocumented persons, but the Protocol does not require this.
- Article 11, paragraph 4, obligates States to provide for sanctions. The precise nature of such sanctions is not explicitly specified, but if criminal liability is to be imposed, drafters should consider article 10 of the Convention, regarding the obligation to provide for liability of legal persons, such as corporations.
- The relevant "travel or identity document" is understood to include any document that can be used for inter-State travel and any document commonly used to establish identity in a State under the laws of that State.

Promising practice

See also Operation Paladin Child (United Kingdom), in Tool 5.4 above.

ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003)

To address 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, through the requirement that carriers take part of the responsibility for the care of travel documents, a significant additional workforce is added to the document inspection and verification process.

Border Liaison Officer Mechanism of the United Nations Office on Drugs and Crime

The aim of a UNODC project entitled "Development of cross-border law enforcement cooperation in East Asia" was to strengthen cross-border law enforcement cooperation to address drug trafficking, in particularly by helping to build relationships between local border officials and their counterparts on the other side of the border. The project was run from the UNODC Regional Centre for East Asia and the Pacific and covered the six countries that participate in COMMIT.

Under the project, UNODC provided training support (through its computer-based training programme, meetings, workshops and study trips) and necessary technical support. Beyond the provision of this support, it is intended to develop a long-term sustainable cooperative mechanism to enable effective operation of technical support. Staff of the border liaison offices established by countries participating in the project come from a range of law enforcement agencies (specialized police, border police, border army, customs, local police, immigration, etc.). The border liaison offices are staffed by between two and five officers for a sustained period, to foster strong cooperation between individuals.

Towards the achievement of goals set out in the COMMIT memorandum of understanding, the six member States agreed on a subregional plan of action that outlined 11 thematic areas for cooperation. To this end, the six Governments agreed to seek to expand the mandate of the border liaison office mechanism to include human trafficking. UNIAP, the secretariat for the COMMIT process, is working with UNODC to take forward this initiative, which is a hallmark example of multi-agency and multilateral law enforcement cooperation.

Source:
www.unodc.un.or.th/law/D91/ad-ras-99-d91.htm

Police cooperation agreements

States are increasingly recognizing the need to cooperate across borders to combat cross-border crime, including trafficking in persons.

INTERPOL provides a non-exhaustive list of cooperation agreements between INTERPOL member States at the following link:

www.interpol.int/public/ICPO/LegalMaterials/cooperation/AgrListPolice.asp

European Union

In a communication to the European Parliament and the Council entitled "Enhancing police and customs cooperation in the European Union" (Com (2004) 376), the European Commission highlights the need for police forces and customs administrations of member States to enhance their communication in order to strengthen the security of the region.

More information is available at:

http://europa.eu/scadplus/leg/en/lvb/l16000.htm

To see the cooperation agreements the European Union has entered into with Canada, China, the Hong Kong Special Administrative Region of China, India and the Republic of Korea visit:

http://europa.eu/scadplus/leg/en/s22007.htm

Europol and Australia

On 27 September 2007, the Australian Parliament ratified a cooperation agreement with Europol to enhance cooperation against international crime. The agreement facilitates the exchange of operational information between Europol and the Australian Federal Police. Furthermore, an Australian Federal Police liaison officer is based with Europol to facilitate cooperation, pursuant to an agreement entered into on 15 February 2007.

For more information on the cooperative arrangements between Europol and Australia, visit:

www.europol.europa.eu/index.asp?page=news&news=pr071005.htm

Bosnia and Herzegovina and Bulgaria

Bosnia and Herzegovina and Bulgaria entered into a police cooperation agreement on 25 September 2007 to strengthen the operational cooperation between the police forces of the two countries, with an emphasis on trafficking in persons.

Source:
http://bosnianews.blogspot.com/2007/09/agreement-on-police-cooperation-signed.html

Italy and Slovenia

In August 2007, Slovenia and Italy entered into an agreement on cross-border police co-operation. The agreement allows police officers to track suspects up to 30 kilometres into the other country and allows joint patrols to operate up to 10 kilometres beyond the border on both sides. The agreement also addresses collaboration in cross-border monitoring and tracking, and operations and investigation by joint patrols. It determines the legal aspects of this cooperation, the rules governing the entry, exit and residence of police officers while working in the other country and other rules, responsibilities and liabilities which apply to them while conducting investigations in the other country.

Source:
www.ukom.gov.si/eng/slovenia/publications/slovenia-news/5300/5307

For further promising cooperative practice, see Tool 4.10.

Tool 5.12 Intelligence gathering and exchange

Overview

This tool examines the types of intelligence required for the conduct of successful investigations.

Intelligence gathering and exchange between relevant authorities of States parties is crucial to the success of measures to attack transnational criminal networks.

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. There are key advantages to creating specialized units to combat trafficking:

- Specialist teams secure better results in identifying and prosecuting traffickers.
- Problems of corruption are easier to address; making a unit exclusively responsible for trafficking means that it is easier to monitor the response and ensure that investigations are being conducted lawfully and ethically.
- Investigators in specialist units can more quickly become specialized in aspects of a complex crime. This creates a pool of skilled officials.
- Intelligence is more efficiently and effectively obtained, allowing for the law enforcement response to be more efficient and effective.

Source: *Responses to Trafficking in Persons: Ending Impunity for Traffickers and Securing Justice for Victims* (ASEAN, 2006), p. 9, at:
www.artipproject.org/artip/14_links/Pubs/ASEAN%20Responses%20to%20TIP.pdf

Types of intelligence: strategic and tactical intelligence

The two key types of intelligence are strategic intelligence and tactical intelligence. An effective approach to trafficking in persons should incorporate appropriate elements of both, in order to achieve a comprehensive and sophisticated picture of complicated and intricate problems, and so support truly effective action.

Strategic intelligence

Strategic intelligence is that which:

- Enables accurate assessments of the nature and scale of trafficking at the local, national and regional levels
- Facilitates changes in legislation, international liaison, prevention strategies, education and awareness-raising campaigns, etc.

- Assists policymakers in planning
- Provides fundamental information in order to raise awareness within the media and public
- Obtains a large proportion of the data used to generate a strategic overview, from information and intelligence gathered at the operational level

Tactical intelligence

Tactical intelligence is that which:

- May lead to the rescue of victims of trafficking
- Forms the basis of investigations
- Is fundamental in the preparation and planning of any operation
- Helps identify specific opportunities to prevent, detect or disrupt trafficking networks
- Informs the development of training and awareness-raising programmes

Other forms of intelligence

Socio-economic factors

Relevant socio-economic factors include:

- Levels of economic hardship
- Feminization of poverty
- Absence of employment and other economic opportunities, and absence of educational opportunities
- Lack of access to health-care facilities
- Civil unrest, or any other relevant factors that serve to create a supply of potential victims

Socio-economic information should ideally include an analysis of how these factors affect trafficking markets. For instance, the intelligence would include features that have an impact on the demand side of the trafficking cycle, such as the demand for females of certain ethnic backgrounds, appearance or age.

Cultural factors

Cultural factors include those affecting the nature of the crime, how it is committed and the response of victims. These may include:

- Beliefs and attitudes that are exploited or manipulated by offenders to recruit or exploit victims. One example of this would be "voodoo" practices in some cultures or the misguided belief that the younger the age of the child prostitute, the lower the likelihood of sexually transmitted infection.
- Cultural practices that may mask trafficking in persons; for example, members of extended families sending their children to stay with relatives.
- Victims' seeking traditional remedies for the physical and psychological injuries caused by trafficking. There may also be sensitive safety issues involved in the repatriation of certain victims, for example, in respect of the repatriation of some Islamic victims of sexual exploitation back into their families.

International relations

Historical, cultural or colonial connections between countries can also be relevant. This intelligence could include information about:

- Use of common languages across borders (for instance, language links may be a contributing factor in trafficking from Central and South America to the Iberian Peninsula)
- Military cooperation between States
- The presence of foreign troops in a State, whether as invaders/occupiers, allies or peacekeepers
- Population displacement
- Internal and international conflicts
- Historical, present and emerging patterns of migration
- Economic and trade relations
- Common border agreements (such as the European Union Schengen Agreement or that relating to passport and travel certificates for nationals of ECOWAS member States)
- Diplomatic relations between States

Patterns and profiles

Patterns and profiles are useful predictors for developing prevention initiatives and recognizing characteristics of offenders and potential victims. Examples include intelligence about:

- Recurring crime patterns
- Patterns of association and collaboration between criminal organizations
- Visa requirements
- Commercial airline partnership agreements
- Strengths and weaknesses of border control and other law enforcement measures

Tactical/operational intelligence

Tactical intelligence is intelligence about the activities of specific criminals or groups of criminals. It can help identify criminals, give advance information about their activities, protect victims and help plan proactive, disruptive and further intelligence-led investigations. Tactical intelligence must address the following issues:

- What method of recruitment is taking place? (deception, coercion, abduction, etc.)
- What transport is used? (routes used, modes of travel)
- What types of exploitation are found? (labour, sexual exploitation)
- What advertising media are used? (printed media, Internet, word of mouth)
- What types of identity and visa documentation are used and how are they prepared (forged?) or acquired?
- What type of accommodation is used? (where is it? who provided it?)
- What means of communication are used? (e-mail, mobile telephones, fax machines, etc.)
- What financial methods have been used? (transactions in respect of all of the above activities)

Use of intelligence

It is essential that intelligence is transmitted to those who are able to use it. A vital factor in the expeditious and effective exchange of intelligence is the speed at which material can be transmitted to relevant agencies or investigators who may be in a position to respond to it.

For more information on intelligence, refer to the UNODC training manual to combat trafficking in persons, forthcoming in 2008, which will be made available at:

www.unodc.org

PROSECUTION OF TRAFFICKERS

Tool 5.13 Prosecution of traffickers

Overview

This tool introduces international standards relating to the prosecution of traffickers. It also presents duties and rights of prosecutors and offers some resources for their effective cooperation in prosecuting the crime of trafficking.

Principles of prosecution

Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors

(International Association of Prosecutors)

1. Professional conduct

Prosecutors shall:

- At all times maintain the honour and dignity of their profession
- Always conduct themselves professionally, in accordance with the law and the rules and ethics of their profession
- At all times exercise the highest standards of integrity and care

- Keep themselves well-informed and abreast of relevant legal developments
- Strive to be, and to be seen to be, consistent, independent and impartial
- Always protect an accused person's right to a fair trial, and in particular ensure that evidence favourable to the accused is disclosed in accordance with the law or the requirements of a fair trial
- Always serve and protect the public interest; respect, protect and uphold the universal concept of human dignity and human rights

2. Independence

2.1 The use of prosecutorial discretion, when permitted in a particular jurisdiction, should be exercised independently and be free from political interference.

2.2 If non-prosecutorial authorities have the right to give general or specific instructions to prosecutors, such instructions should be:

- Transparent
- Consistent with lawful authority
- Subject to established guidelines to safeguard the actuality and the perception of prosecutorial independence

2.3 Any right of non-prosecutorial authorities to direct the institution of proceedings or to stop legally instituted proceedings should be exercised in similar fashion.

3. Impartiality

Prosecutors shall perform their duties without fear, favour or prejudice. In particular they shall:

- Carry out their functions impartially
- Remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the public interest; act with objectivity
- Have regard to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect
- In accordance with local law or the requirements of a fair trial, seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect
- Always search for the truth and assist the court to arrive at the truth and to do justice between the community, the victim and the accused according to law and the dictates of fairness

4. Role in criminal proceedings

4.1 Prosecutors shall perform their duties fairly, consistently and expeditiously.

4.2 Prosecutors shall perform an active role in criminal proceedings as follows:

- Where authorized by law or practice to participate in the investigation of crime, or to exercise authority over the police or other investigators, they will do so objectively, impartially and professionally.

- When supervising the investigation of crime, they should ensure that the investigating services respect legal precepts and fundamental human rights; when giving advice, they will take care to remain impartial and objective.
- In the institution of criminal proceedings, they will proceed only when a case is well-founded upon evidence reasonably believed to be reliable and admissible, and will not continue with a prosecution in the absence of such evidence; throughout the course of the proceedings, the case will be firmly but fairly prosecuted; and not beyond what is indicated by the evidence.
- When, under local law and practice, they exercise a supervisory function in relation to the implementation of court decisions or perform other non-prosecutorial functions, they will always act in the public interest.

4.3 Prosecutors shall, furthermore:

- Preserve professional confidentiality
- In accordance with local law and the requirements of a fair trial, consider the views, legitimate interests and possible concerns of victims and witnesses, when their personal interests are, or might be, affected, and seek to ensure that victims and witnesses are informed of their rights
- And similarly seek to ensure that any aggrieved party is informed of the right of recourse to some higher authority/court, where that is possible
- Safeguard the rights of the accused in cooperation with the court and other relevant agencies
- Disclose to the accused relevant prejudicial and beneficial information as soon as reasonably possible, in accordance with the law or the requirements of a fair trial
- Examine proposed evidence to ascertain if it has been lawfully or constitutionally obtained
- Refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods which constitute a grave violation of the suspect's human rights, and particularly methods which constitute torture or cruel treatment
- Seek to ensure that appropriate action is taken against those responsible for using such methods
- In accordance with local law and the requirements of a fair trial, give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally or diverting criminal cases, and particularly those involving young defendants, from the formal justice system, with full respect for the rights of suspects and victims, where such action is appropriate

5. Cooperation

In order to ensure the fairness and effectiveness of prosecutions, prosecutors shall: cooperate with the police, the courts, the legal profession, defence counsel, public defenders and other Government agencies, whether nationally or internationally; and render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual cooperation.

6. Empowerment

In order to ensure that prosecutors are able to carry out their professional responsibilities independently and in accordance with these standards, prosecutors should be protected against arbitrary action by Governments. In general they should be entitled:

- To perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability
- Together with their families, to be physically protected by the authorities when their personal safety is threatened as a result of the proper discharge of their prosecutorial functions
- To reasonable conditions of service and adequate remuneration, commensurate with the crucial role performed by them, and not to have their salaries or other benefits arbitrarily diminished; to reasonable and regulated tenure, pension and age of retirement subject to conditions of employment or election in particular cases
- To recruitment and promotion based on objective factors, and in particular professional qualifications, ability, integrity, performance and experience, and decided upon in accordance with fair and impartial procedures
- To expeditious and fair hearings, based on law or legal regulations, where disciplinary steps are necessitated by complaints alleging action outside the range of proper professional standards
- To objective evaluation and decisions in disciplinary hearings
- To form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status; and to relief from compliance with an unlawful order or an order which is contrary to professional standards or ethics.

The IAP Standards of Professional Responsibility and Statement of Essential Duties and Rights of Prosecutors are available at:
www.iap.nl.com

IAP Rules for Prosecutors in Obtaining Mutual Legal Assistance

Rule 1. The document you send will be open to both judicial and possibly public scrutiny and the contents should be completed with utmost care.

Rule 2. Only ask another State to do for you what your law enables you to do, and where the request will result in additional evidence of value to the prosecution.

Rule 3. Check the contents of your request, ensure your name and contact details appear, make sure necessary annexes are attached.

Source: Mutual Legal Assistance, Best Practice Series No. 4 available at: www.iap.nl.com

Jurisdiction

Prosecutions should take place in the jurisdiction where the majority of the criminality took place or where the majority of the loss took place. In trafficking cases, this is often (but not automatically) the destination location where the exploitation took place. The following factors should be considered in determining jurisdiction.

Existence of legislation

- Does the legislation of the jurisdiction include the offence of trafficking in persons?
- Is the legislation comprehensive and does it include all forms of exploitation, including that in question?

Sentencing powers (see Sentencing, below)

- Sentencing should reflect the gravity of the offence.

Location of the accused

- Is it possible to prosecute in that jurisdiction?
- Are transfer or extradition proceedings possible? The general principle of *aut dedere aut judicare* (extradite or prosecute) applies here.

Division of prosecution

- Cases may be complex and cross borders. Prosecution in more than one jurisdiction is not desirable.
- What measures can realistically and practically be taken to allow a prosecution to take place in one jurisdiction?

Witness attendance

- The attendance of victims as witnesses is often necessary in trafficking cases; ensure that measures are taken to give the best possible support to these witnesses.
- In transnational trafficking cases, witnesses may be required from other jurisdictions. Consider which parts of evidence may be received in other forms such as in writing or via a video link.

Witness assistance/protection (see Chapter 8)

- What assistance can a witness be given in a particular jurisdiction? (this may include simple measures such as providing a witness with a mobile phone and some credit or establishing an e-mail account for them if they know how to use e-mail)
- Does the jurisdiction have a legal framework that allows for witness protection or assistance? If there is no official legal framework, is there a de facto witness assistance programme or the possibility of assistance/protection on a case-by-case basis?
- What evidence is there that a stated witness assistance programme is actually effective in practice? Are there any indicators that show it is not?
- Is there a capability of the suspected trafficker(s) intimidating a witness in a particular jurisdiction?
- Are there any general issues, such as existing or emerging conflict, that may affect the ability to protect witnesses?

Delay

Time should not be a leading factor but it should be considering.

- Delays should be minimized. Are there backlogs which would delay the case?
- What is the potential timescale for a case to come to trial in a particular jurisdiction?

Interests of the victim

- Would the interests of the victim be prejudiced by changing jurisdiction?
- Is compensation for victims possible within a jurisdiction?
- What levels of compensation may be expected in different jurisdictions?

Evidential issues

Cases should proceed on the best possible evidence. Admissibility of evidence varies from jurisdiction to jurisdiction.

- Given the evidence available and the rules of admissibility, which jurisdiction would offer the best chance of successful prosecution?

Legal requirements

Decisions on where to hear cases cannot be taken to avoid complying with legal requirements in one or other jurisdiction.

Proceeds of crime

This is not a primary consideration, but factors which should be considered include:

- Where are the assets held?
- Where is there the best chance of securing asset seizure?

- Will the jurisdiction share recovered assets with law enforcement/prosecutors/victims in other jurisdictions?
- Do victims have access to any recovered assets as compensation?

Costs of prosecuting

This should be a consideration when all other factors are equally balanced.

For more information on jurisdiction, refer to the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Sentencing

Trafficking in persons has been described as a high profit, low risk crime because the penalties imposed on traffickers are lenient relative to the crime that they have committed. States should take the necessary measures to ensure that the offence of trafficking in persons as defined by the Protocol is punishable by effective, proportionate and dissuasive criminal penalties.

Principles of sentencing

Sentencing should be guided by the seriousness of the offence. Seriousness is determined by:

- The culpability of the offender (how much an offender is to blame or is responsible)

  The offender has intention to cause harm, is reckless as to whether harm is caused, has knowledge of specific risks even though he or she does not intend to cause the harm that results, or is negligent as to the resulting harm.

  An offender's culpability is high in circumstances where activities are non-consensual, coercive or exploitative, where more harm was caused than was necessary to commit the offence and/or where vulnerable victim(s) have been deliberately targeted.

- The harm caused by the offence (harm to individual victims, the community and other forms)

  Individuals may suffer physical and psychological injury, financial loss, detriment to their health etc. Where no such harm has occurred, the court should consider the likelihood of harm occurring and the impact if it had occurred.

  The community at large may be harmed by economic loss, damage to public health or interference with economic integrity and the administration of justice.

  Another type of harm may be that suffered by the victim's friends, family or community members.

Judges can only make a decision based on the facts before them. If there is no evidence of aggravating or mitigating circumstances, then this will be reflected in the sentence. Prosecutors should put all the facts before the court, taking into consideration all aggravating and mitigating circumstances. The commission of the offence for financial gain will be a common circumstance in trafficking cases, as will that of deliberately targeting vulnerable persons. Other aggravating circumstances which should be taken into consideration include the pregnancy of victims, victims who are children, exposure to serious injury or harm and a large number of victims.

The legal requirement that the prosecution put all information to the court varies in different jurisdictions. Even where there is not a formal requirement to do so, it is good practice for prosecutors to draw aggravating and mitigating factors to the attention of the court to ensure that decisions are fair and that the system is respected for the sentences it delivers.

For more information on sentencing, refer to the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Promising practice

United Nations Interregional Crime and Justice Research Institute

With the aim of strengthening the capacities of Costa Rican public prosecutors in responding to trafficking in persons, the UNICRI action programme against trafficking in minors for sexual purposes set up an information system for the investigation and prosecution of human trafficking cases implemented within the judicial system of Costa Rica, and specifically targeted at the offices of public prosecutors in charge of investigating cases of sexual exploitation of children and trafficking in children for sexual purposes.

That information system connects prosecutors' offices all over Costa Rica via an Intranet. This is an important data collection tool that can assist in building stronger cases and improve investigating skills and strategies. It will also support the Attorney General's Office in drawing up policies against these crimes.

For more information see:

www.unicri.it/wwd/trafficking/minors/activities_costarica.php

Recommended resources

International Association of Prosecutors

IAP has made a variety of resources available online via its website. Among materials relevant to the prosecution of traffickers of people are the IAP Standards of Professional Responsibility (see above), the Model Guidelines for Effective Prosecution of Crimes against Children and resources relating to mutual legal assistance, victims and human rights.

These and other resources are available at:
www.iap.nl.com

PROTECTION AND TREATMENT OF VICTIMS, WITNESSES AND OFFENDERS

Tool 5.14 Seeking the collaboration of offenders

Overview

This tool presents the provisions of article 26 of the Organized Crime Convention relating to important practices in involving offenders in investigation and prosecution.

The investigation and prosecution of traffickers can be greatly assisted by the cooperation of members of criminal organizations involved in trafficking 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.

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 for 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 the 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 are not obliged to adopt leniency or immunity provisions.

Article 26 of the Organized Crime Convention Measures to enhance cooperation with law enforcement authorities

In accordance with article 26 of the Organized Crime Convention:

1. Each State part must take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:

   (a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

   (i) The identity, nature, composition, structure, location or activities of organized criminal groups;

   (ii) Links, including international links, with other organized criminal groups;

   (iii) Offences that organized criminal groups have committed or may commit;

   (b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

Tool 5.15 Guidelines on human rights and human trafficking in the context of law enforcement

Overview

This tool provides the recommended principles of the United Nations High Commissioner for Human Rights concerning law enforcement.

For guidelines for law enforcers, prosecutors and judges in relation to HIV/AIDS, see Tool 8.13.

An effective law enforcement response to trafficking is not limited merely to the application of law in individual cases, but has relevance to all the complicated facets of trafficking. Effective law enforcement response also depends on the participation of all levels of society, from local communities and non-governmental organizations to migration officials and prosecutors.

The human rights of trafficked persons must be at the centre of efforts to combat trafficking and must be protected at all stages of the law enforcement process. For law enforcers, it is essential that trafficked persons are not criminalized but instead that their special concerns are addressed, while perpetrators are held accountable.

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

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking offer important guidance for anti-trafficking efforts. The guideline of key relevance to law enforcement efforts is provided below.

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 Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Tool 5.16 Protecting victims during investigations

Overview

This tool introduces the requirements of the Organized Crime Convention and the Trafficking in Persons Protocol with respect to protecting victims, and summarizes some good practice that can serve as a basis for a humanitarian approach to law enforcement.

The health and safety of victims takes precedence over other investigation objectives!

For more on victim assistance see Chapters VI and VIII below. Law enforcers should particularly refer to Tool 6.10 concerning victim identification and Tool 6.11 on interviewing victims, Tool 8.2 on obligations of States to child victims and Tool 8.3 on protection, assistance and human rights. See also Tool 5.19 concerning special considerations with regard to the protection of child witnesses of trafficking in persons.

Basic principles of protection

Law enforcement officers have an unequivocal humanitarian and legal duty to treat the victims of trafficking in accordance with their fundamental human rights.

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 enforcement 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: *Best Practice*; UNDP, *Law Enforcement Manual for Fighting against Trafficking of Human Beings*, available at:
www.undp.ro/governance/Best%20Practice%20Manuals

Protection of victims under the Organized Crime Convention

Article 25, paragraph 1, of the Organized Crime Convention requires each 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". 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 that protection extends to all victims who are also witnesses, but to meet the requirements of article 25, legislators must either extend it 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".

Victims of trafficking are often reluctant to come to the authorities for a number of reasons:

- Fear of reprisal from traffickers
- Trauma, shame and fear of rejection by family and society upon return to their country of origin
- Hope of being smuggled again for the possibility of a better life
- Lack of trust
- Lack of information on available assistance, particularly from non-governmental organizations

With these factors in mind, key points to note are that States are required, by virtue of article 25, to assist and protect victims of trafficking regardless of whether they are witnesses in criminal proceedings. Merging witness and victim protection measures with appropriate support measures assists countries in complying with the requirements of the Organized Crime Convention and increases the chance that witnesses and victim-witnesses will cooperate with criminal justice processes.

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 be 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 authority to 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.

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 law enforcement authorities, whereas article 9 paragraph 1 *(b)* of the Protocol 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. 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.

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 intermediaries.

The role of prosecutors in providing physical protection measures to victims appearing as witnesses (victim-witnesses)

- Full or partial anonymity may be appropriate for some victim-witnesses.
- Where the law allows, review cases to identify if there is a need for anonymity and make appropriate arrangements (including any judicial hearings) required to establish anonymity.
- Consider if the risk to the victim indicates that it would be appropriate to hold a suspect or suspects in custody pending the final court hearing.
- Where you do not have the power to authorize pre-hearing detention, make an application for pre-hearing detention.
- Unless it is unavoidable, do not visit victim-witnesses at shelters or other places where they are living. If it is unavoidable, do so as discretely as possible.
- It may be difficult to arrange protection at some courts. In some situations it may therefore be appropriate to hear a case in a particular court or transfer a case to a particular court. Find out the possibility and the procedures for arranging the transfer of hearings to other courts.
- Consider any protection measures that may be required in court buildings at any hearings (including pre-hearing and full trial). These may include:

  Visiting courts to check whether they are suitable to provide required levels of protection

  Video or audio links from rooms within the court or from another building; in some cases, it may be possible to use video links from outside your state or region

  Screens for witnesses to keep the victim-witness out of view of the suspect and others in court

  Separate rooms for victim-witnesses and suspects and defence witnesses

  Checking that court staff are aware of what they should do to help protect victim-witnesses

  Secure routes into and out of the court

  Arranging for accommodation that is accessible to the court but secure

  Showing witnesses the layout of the court prior to the hearing and explaining court procedures (Note: It is important not to coach witnesses on how to give evidence)

  Special arrangements such as (in some jurisdictions) removal of gowns and wigs

Where you need prior judicial approval for special arrangements, informing the judicial authorities and starting the required procedures

- In some jurisdictions, there are specific requirements concerning the use of witness supporters in court. Where there is no specific requirement, it is good practice to provide witness support, but only where provided by appropriate people with appropriate training and experience.

Recommended resources

For more information on protecting victims (and witnesses), see the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Human Traffic, Human Rights: Redefining Victim Protection

This 2002 publication by Anti-Slavery International is an investigation of various measures to protect victims of trafficking, particularly those who act as witnesses in the prosecution of traffickers, in Belgium, Colombia, Italy, the Netherlands, Nigeria, Poland, Thailand, Ukraine, the United Kingdom and the United States. The report found stronger success in prosecutions where there were stronger measures in place to protect victims effectively. The report makes various recommendations for Governments on protecting victims of trafficking.

The full report is available at:

www.antislavery.org/homepage/resources/humantraffichumanrights.htm

Promising practice

Federal Law of the Russian Federation

The 2005 Federal Law on Government Protection of Victims, Witnesses and Other Participants in Criminal Proceedings establishes a system of measures to ensure Government protection, including actions to ensure security of and assistance to victims, witnesses and other participants in criminal proceedings. The Law also sets out eligibility criteria and procedures for the application of protection measures.

The Federal Law of the Russian Federation is available at:
http://no2slavery.ru/files/witseclaw.doc

Tool 5.17 Witness protection

Overview

This tool presents the provisions of article 24 of the Organized Crime Convention relating to the protection of witnesses and article 23, subparagraphs (a) *and* (b) *on obstruction of justice. The tool also introduces the United Nations model witness protection bill.*

Principles of protection

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. The key principles to bear in mind with respect to witness protection are:

Physical protection

- This is particularly important when witnesses are testifying against organized criminal groups.
- It can range from simple and affordable measures (like giving witnesses a mobile phone) to more complicated resource-intensive measures (such as domestic or foreign relocation of witnesses or changing the identity of a witness).
- Criminal prosecution of offenders or their accomplices for intimidating or threatening witnesses is another means of protecting witnesses.
- Types of physical protection that should always be considered on the basis of individual circumstances are:

  Police escorts from and to court

  Security in the courtroom (including checking for weapons)

  Keeping the victim informed of proceedings (especially where the accused person is released from custody)

  Protection for the witness's family

Psychological protection

- This includes the stabilization of the victim's psychological situation and the avoidance of further stress (e.g. through revictimization or relapse into trauma as a consequence of legal proceedings).
- Many forms of psychological protection depend on national rules and proceedings.
- Types of psychological protection which should always be considered are:

  Keeping the witness fully informed of what to expect in the courtroom

  Allowing expert counsellors to accompany the witness to court

  Utilizing judges, prosecutors and police who are specially trained and sensitive to the specific needs of witnesses

  Making available a separate waiting room for witnesses at courtrooms to avoid the witness being confronted by the defendant or the defendant's associates out of the courtroom

Protection from unfair treatment

- It is essential to ensure that victims are treated in a manner that respects their rights and their dignity.
- Because of the value of witnesses in successfully prosecuting perpetrators, there is a danger that they will be regarded as tools in the process. This can lead to unfair treatment of witnesses, including repeated interrogation, invasive medical examination and incarceration. Fair treatment means treating witnesses primarily as individuals entitled to dignity and protection of their rights.
- The provision of adequate legal advice and services can assist in protecting witnesses from unfair treatment from an early stage, even before they have agreed to serve as witnesses.

In implementing witness protection measures, States must ensure that protection measures are implemented in a way that does not undermine the right of the defendant to a fair and open trial.

Article 24 of the Organized Crime Convention

Protection of witnesses

In accordance with article 24, paragraph 1, 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.

Article 24, paragraph 2, provides that these measures may include:

(a) 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;

(b) 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.

In article 24, paragraph 3, States parties are also encouraged to enter into agreements or arrangements with other States for the relocation of witnesses. Article 23, paragraph 4, states that the article applies to victims of crime insofar as they are also witnesses.

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 witnesses to whom the obligations apply to "witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, ... their relatives and 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.

Article 23 of the Organized Crime Convention

Criminalization of obstruction of justice

By virtue of article 23 of the Organized Crime Convention, States parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) 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;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States parties to have legislation that protects other categories of public officials.

This article requires States 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 both of corrupt means, such as bribery, and of coercive means, such as the use or threat of violence.

In relation to 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", the use of force, threats and inducements to false testimony can occur at any time before the commencement of the trial, whether a formal "proceeding" is in progress or not. Therefore, the term "proceeding" must be interpreted broadly to cover all official governmental proceedings, including pretrial processes. States are required to apply this offence to all proceedings relating 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.

Recommended resource

United Nations model witness protection bill

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.

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 to witnesses participating in it is made an offence.

The model witness protection bill and commentary can be found on the UNODC website, at:

www.unodc.org/unodc/en/legal-tools/Model.html

Good practices for the protection of witnesses in criminal proceedings involving organized crime

In 2005, UNODC commenced a series of regional meetings with the active participation of expert representatives of law enforcement, prosecutorial and judicial authorities of Member States, to develop a set of internationally recognized good practices for use in the establishment and operation of witness protection programmes. Workshops were held at UNODC, Vienna in September 2005, Mexico City in November 2005, Bangkok in June 2006 and again in Vienna in November 2006. The product of these events are guidelines

that reflect experience from different geographical regions and legal systems, as well as existing literature, and previous and ongoing work by UNODC and other international and regional organizations. The good practices identified reflect a holistic approach to witness protection. The guidelines examine a series of measures that may be undertaken to safeguard the physical integrity of people who give testimony in criminal proceedings from threats against their life and intimidation. These measures provide for a continuum of protection, starting with the early identification of vulnerable and intimidated witnesses, moving through the management of witnesses by the police and the enactment of measures to protect their identity during court testimony and culminating with the adoption of the exceptionally severe measures of permanent relocation and change of identity.

These guidelines are forthcoming in 2008, at:
www.unodc.org

Promising practice

Witness Protection, Security and Benefit Act of the Philippines

The Witness Protection, Security and Benefit Act of the Philippines 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, see:
www.doj.gov.ph/faqs_witness.html and
www.chanrobles.com/republicactno6981.htm

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.

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.

Sarajevo Declaration of the Ministers of Interior or Public Order and State Representatives from South Eastern Europe concerning the fight against organized crime, regarding in particular data protection and processing, as well as witness protection

The signatories to the Declaration agreed to the following:

1. To be a party to the relevant legislation on data protection as a condition for the exchange of information with the aim to create trust among international, European and regional law enforcement agencies;
2. To develop mechanisms in line with European Union standards to ensure cooperation between national ministries, judicial bodies, various crime-fighting agencies, including police, customs, border police, prosecutor's offices, etc;
3. To share expertise and best practices on the implementation of protection and processing of personal data with those countries that already have legislation corresponding to European Union standards;
4. To promote tools designed to guarantee the personal right to privacy with regard to the processing of personal data, as well as to improve the legislation and enforcement applying to the collection, storage, use and disclosure of personal data for law enforcement purposes;
5. To create appropriate institutional infrastructure for the implementation and enforcement of the legislation and ensure that it is adequately resourced;
6. To be a party to the relevant legislation on witness protection as one of the crucial tools for the successful investigation and prosecution of organized crime offences;
7. To respect the integrity and freedom of witnesses who have or are willing to offer crucial information to law enforcement and judicial bodies regarding the perpetration of an organized crime offence;
8. To draft and adopt witness protection law and secondary legislation in line with European Union standards;
9. To share expertise and best practices on the implementation of witness protection for the South-Eastern European countries that already have legislation corresponding to European Union standards;

10. To create the appropriate institutional infrastructure for the enforcement of the legislation and ensure that it is adequately resourced;
11. To be conducive to interregional cooperation, particularly among police forces;
12. To grant a reflection period to the victim to decide to act as a witness;
13. To recognize that victim-witnesses have unique characteristics and are subject to unusual risks which require special protective measures;
14. To generate best assistance practices for victims/witnesses before, during but also after court proceedings, and after return to the country of origin or third country.

The Sarajevo Declaration is available at:
www.stabilitypact.org/org-crime/030619-sarajevo.asp

Tool 5.18 Witness protection during and after the prosecution and trial

Overview

In relation to the protection of witnesses during and after the prosecution and trial, this tool discusses:

- *Witness protection measures*
- *The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*
- *The role of non-governmental organizations in witness protection*
- *Promising State practice*

Witness protection during the prosecution and trial

Witness protection measures

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, are aimed at protecting the witness's identity, privacy and dignity. Other measures, for example witness concealment or allowing witnesses to remain anonymous, are aimed at protecting their physical security.

Court witness protection measures are generally authorized and regulated under criminal (procedural) law. Such measures are intended 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 may not be sufficient to guarantee effective protection for victims testifying against the traffickers. Additional measures may be necessary to avoid the witness being recognized by the trafficker. They 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 witnesses are 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.

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.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

(General Assembly resolution 40/34, annex)

The Declaration, adopted by the General Assembly in 1985, recognizes that the victims of crimes and often their families, witnesses and others who aid them, experience additional hardship where they assist in the prosecution of offenders. In order to ensure that they do not suffer unnecessary harm if they cooperate in proceedings, the Declaration outlines 21 principles for victim support and assistance. Guiding requirements which emerge are that victims:

- Should be adequately recognized and treated with respect for their dignity
- Are entitled to access to judicial mechanisms and prompt redress for the harm and loss they have suffered
- Are entitled to receive adequate specialized assistance in dealing with emotional trauma and other problems caused by their victimization

Paragraph 6 of the Declaration addresses the responsiveness of judicial and administrative processes to victims' needs, which should be facilitated by:

(a) Informing victims 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 where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their family and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

The Declaration can be accessed at:
www.un.org/documents/ga/res/40/a40r034.htm

Role of non-governmental organizations in witness protection

For various reasons, governmental witness protection programmes often cannot be applied to the protection of witnesses of trafficking. Firstly, they can be 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.

Effective cooperation between the authorities and non-governmental organizations providing victim support services requires a common understanding of the problem, agreed aims for the cooperation, a clear understanding of the distinct roles of the players, and respect for 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 include 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 with and confidentiality for the victim are basic principles governing 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.

Promising Practice

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 pretrial 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 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 access to this location to technical staff, officials or security personnel deemed strictly indispensable. During the testimony, an escort judge must be present.

Bosnia and Herzegovina

The purpose of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses is to regulate the measures to provide for the protection of witnesses under threat and vulnerable witnesses in criminal proceedings conducted by the Court of Bosnia and Herzegovina or the Chief Prosecutor of Bosnia and Herzegovina in criminal offences over which the Court has jurisdiction. Article 8 of that law discusses the examination of witnesses deemed to be under threat and vulnerable, and provides for measures to protect them from harassment and confusion. Article 9 states that testimony may be given using technical means to permit the parties and the defence attorney to ask questions although not in the same room as the witness. Article 10 allows for the removal of the accused where there is concern that the presence of the accused will affect the ability of the witness to testify fully and correctly.

www.anti-trafficking.gov.ba/fajlovi/BIH_Law_on_Protection_of_Witnesses.doc-44.doc

Germany

Under article 247 of the German Code of Criminal Procedure, the exclusion of the defendant is provided for where it is feared that, in his or her presence, the witness may not tell the truth; that a considerable burden would be placed on witnesses under 16 years of age; or that there is an extreme danger of grave detriment to the health of witnesses. In such cases, the defendant is removed from the courtroom for the duration of the examination of the witness and readmitted thereafter, and informed of the essential substance of the

examination by the presiding judge. The German Code of Criminal Procedure also allows for other protective measures under certain circumstances, including:

- The exclusion of the public from proceedings (art. 171)
- The attendance of expert counsellors (art. 175)
- The exclusion of the media (art. 169)
- Examination of witnesses by video (art. 247)

Recommended resources

Regional Victim/Witness Protection Protocol to Combat Trafficking, Commercial Exploitation and Sexual Abuse of Women and Children in South Asia

South Asia Regional Initiative/Equity Support Program

This Protocol is an attempt by the Regional Action Forum on Improving the Implementation of Laws Protecting Women and Children to establish norms for victim/witness protection in Bangladesh, India, Nepal and Sri Lanka. Although the laws (penal codes, criminal procedure codes and Constitutions) of those countries refer to witness protection, the drafters of the Protocol believe that the existing laws are insufficient to adequately protect women and child victim-witnesses who have been trafficked for sexual exploitation. In response, the Protocol is rights-based and regionally specific to protect and promote the rights of victims and witnesses of crimes in proceedings where their lives, psychological and physical security and property are endangered through their participation in the criminal justice system. The Protocol is a response to the need for a common approach and for common principles to guide the protection of victims and witnesses.

The Regional Victim/Witness Protection Protocol to Combat Trafficking, Commercial Exploitation and Sexual Abuse of Women and Children in South Asia is available at:

www.sariq.org/downloads/10_59_17RVWPP%20-%20Final.pdf

Witness protection after the prosecution and trial

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 Organized Crime Convention, whether this is produced as evidence or not.

Protection programmes

Police witness protection programmes are intended to prevent offenders or their accomplices from approaching and intimidating witnesses. In some cases, the participation of witnesses in a witness protection programme will be absolutely necessary to guarantee their safety. In other cases, protection measures 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 for the daily lives of the witnesses involved, such programmes are usually restricted to cases involving serious crime, including organized crime.

Witness protection measures include relocation of witnesses, change of identity, police escorts and financial and social assistance. Relocation involves the removal of witnesses, possibly together with the families, from the place where they live 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 the 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 the staff of non-governmental organizations specializing in victim support, may also face threats to their security. States should therefore ensure that witness protection programmes can be extended to such persons.

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, in 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.

Tool 5.19 Special considerations relating to the protection of child witnesses

Overview

This tool discusses special considerations relating to the protection of child witnesses.

Before a child is asked to play a role in trial proceedings, formal assessment of the risks posed to the child and his or her family should be carried out. The assessment should consider whether there is a threat to the child, both during legal proceedings and afterwards.

The harm posed to the child from having to repeat the story of his or her ordeal must also be considered.

The decision for a child to participate or not in legal proceedings (and if so, on what conditions) must be taken with due regard for the possible threat from traffickers and their associates before and during the trial, and the risks created by procedures observed in the course of a trial or other proceeding, and for whether a threat is likely to be posed to the child after the conclusion of the trial, particularly where traffickers are not successfully prosecuted. The protection required by children participating in legal proceedings is different from the basic protection needed by all trafficked children, because there is a real risk that the procedures used at trials and in other proceedings may themselves expose children to harm. Protection must be afforded:

- Before the trial, while waiting for the trial to take place or while giving pretrial testimony
- During the trial, including special in-court protection and child-friendly procedures
- After the trial, when the trafficker is released from custody or prison

The identity and secure location of children should not be publicly disclosed; their privacy should be respected and protected as much as possible while taking into account the right of the accused to a fair trial. Witness protection can be expensive (e.g. providing witnesses with a new identity, relocation and resettlement). However, there are measures which are relatively cheap and effective, such as providing the child with a mobile phone or alarm to ring if he or she feels threatened.

Child-friendly procedures in the course of legal proceedings

Given that legal procedures in many countries are not currently child-friendly, trafficked children are often prevented from having adequate access to the law. As a result, many countries are not fulfilling their obligations under the Convention on the Rights of the Child. Specific measures to protect children's rights and interests are outlined in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which states that the special needs of children as witnesses must be recognized. Article 8 of that Optional Protocol offers seven measures which States parties should adopt to protect the rights and interests of children in the criminal justice process:

(a) Adapting procedures to recognize their special needs of children, including their special needs as witnesses

(b) Informing children of their rights, their roles and the scope, timing and progress of proceedings

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law

(d) Providing appropriate support services to child victims throughout the legal process

(e) Protecting the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to their identification

(f) Providing for the safety of child victims, as well as their families and witnesses on their behalf, from intimidation and retaliation

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims

More information about protecting child witnesses can be found in the UNICEF *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, available at:

www.unicef.org/ceecis/protection_4440.html

Model Guidelines for the Effective Prosecution of Crimes against Children (International Institute of Prosecutors)

IAP compiled guidelines bringing together international standards to be observed for the treatment of children and standards to be observed by prosecutors. The guidelines cover general principles, case management and training, pretrial decisions, case preparation, trial procedures, sentencing, services to the child and multi-disciplinary teams, international cooperation and assistance, and implementation and monitoring.

With regard to trial procedures, the model guidelines state that prosecutors should facilitate the development, availability and use of procedures to assist the child in giving

testimony. Prosecutors should consult with the child, assist him or her in making an informed decision regarding the use of procedures and apply to the court to have procedures in place for the child during the trial. Procedures vary between jurisdictions, but may include:

(a) Allowing a videotaped statement of the child's evidence

(b) The use of closed-circuit television

(c) Alternative arrangements for giving evidence, such as screens

(d) Allowing for the presence of a support person or advocate while the child is giving evidence

(e) Use of an intermediary to assist child witnesses to give evidence

(f) Prohibiting the defendant from cross-examining the child victim in person

(g) Objecting to aggressive or improper cross-examination by the defence

(h) Closing the court to the public

(i) A ban on the media

(j) Reducing the formality of the courtroom by measures such as removing advocates' robes

The complete model guidelines are available at:
www.iap.nl.com

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

LAW ENFORCEMENT TRAINING TOOLS

Tool 5.20 Training tools for law enforcement officials and the judiciary

Overview

This tool recommends resources for training law enforcement officials and members of the judiciary in combating trafficking in persons.

There are several resources available to assist in strengthening the law enforcement response to human trafficking. Those listed below are a non-exhaustive sample of such tools. For more information about these and other resources, consult also Tool 2.14 and Tool 9.18.

Recommended resources

United Nations

Operational training manual to combat trafficking in persons (United Nations Office on Drugs and Crime)

Forthcoming in 2008 at:
www.unodc.org

Training manual; Assistance for the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003) (United Nations Office on Drugs and Crime)

While primarily designed to assist in the implementation of the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003), this training manual published in 2006, is useful for law enforcers acting against trafficking everywhere. Sections of the manual are devoted to the normative framework, trafficking methodology, investigative principles, victim issues and international cooperation against trafficking in persons.

The manual can be consulted at:
www.unodc.org/pdf/ecowas_training_manual_2006.pdf

E-learning human trafficking module (United Nations Office on Drugs and Crime)

Computer-based training is a form of e-learning involving training presented on interactive CD-ROMs and lessons delivered via interactive television. In this way, students who are located in remote areas throughout the world can learn practical skills at their own pace. This training package has been designed to enable law enforcement officials to enhance their skills, knowledge and awareness at their own pace and in their own language, using state of the art interactive computer-based law enforcement training packages. Programmes are tailored for domestic legal circumstances, but also emphasize the regional and global impact of transnational organized crime.

A training module on human trafficking has been designed for law enforcement personnel with the overall objective of providing them with a basic understanding of human trafficking to enable them to better detect and respond to the crime.

A demonstration of the Human Trafficking module is available at:
www.unodc-elearning.org/index.php?option=com_wrapper&Itemid=43

e-Learning Home:
www.unodc-elearning.org/index.php?option=com_wrapper&Itemid=33

Law enforcement best practice manuals (United Nations Development Programme, Romania)

A UNDP Romania project implemented between November 2001 and January 2004 in cooperation with the Romanian Ministry of Administration and Interior, with funding from the United States Agency for International Development (USAID), led to the development of training manuals for law enforcement officials. These training manuals were launched in December 2003 in Vienna as part of a comprehensive anti-trafficking training strategy for South-East Europe.

The manuals can be consulted at:
www.undp.ro/governance/Best%20Practice%20Manuals

Training Manual on Trafficking in Human Beings in Peace Support Operations

(United Nations Interregional Crime and Justice Research Institute)

In July 2006, the Institute released a training manual on combating trafficking in human beings in peacekeeping operations. The training programme covers victim protection as well as reactive, proactive and disruptive investigation. For more information and resources for international law enforcers, see Tool 9.13 and Tool 9.14.

More information on this training is available at:
www.unicri.it/wwd/trafficking/peacekeeping/index.php

Combating Human Trafficking in Asia: a resource guide to international and regional legal instruments, political commitments and recommended practices

(Economic and Social Commission for Asia and the Pacific)

This resource guide, issued by the Economic and Social Commission for Asia and the Pacific, is primarily concerned with international and regional instruments against trafficking in persons, but chapter 2 is dedicated to improvement of the law enforcement response to trafficking in persons.

The resource guide is available at:
www.unescap.org/esid/GAD/Publication/Trafficking-File1.pdf

Human Rights and Law Enforcement: Manual on Human Rights Training for the Police

(Office of the United Nations High Commissioner for Human Rights)

This item in the Professional Training series consists of three components: a manual and a trainer's guide on human rights for the police, and a pocket book of international human

rights standards. The trainer's guide is a practical tool for trainers, including tips and techniques for trainers as well as model presentations which can be adapted.

Source: These resources in the Professional Training series are available at:

www.unhchr.ch/html/menu6/2/training.htm

International Centre for Migration and Policy Development

Anti-Trafficking Training for Frontline Law Enforcement Officers

In 2007, ICMPD published *Anti-Trafficking Training for Frontline Law Enforcement Officers*. This training material was developed with the objective of raising awareness of human trafficking as a serious crime and a violation of human rights, and to enhance the capacity of non-specialized police and border personnel to identify and properly treat victims of crime. The training material consists of a training guide (containing a curriculum of five units) and a background reader (comprising topics relating to trafficking relevant to police, border and customs officials) to complement the training guide.

The publication is available free of charge to actors in the field of anti-trafficking. For more information, visit:

www.anti-trafficking.net

Regional Standard for Anti-Trafficking Police Training in South Eastern Europe

In 2003, ICMPD also published a *Regional Standard for Anti-Trafficking Police Training in South Eastern Europe*, an interactive awareness training package for non-specialized law enforcement officers to be adapted to the needs and included in the training curricula of police academies in South Eastern European countries. The training is intended to be delivered by a multi-disciplinary expert team including specialist police investigators, police trainers, prosecutors, non-governmental organizations and trauma experts. Materials are available in Albanian, Bosnian, Bulgarian, Croatian, English, Hungarian, Macedonian, Romanian, Serbian, Slovenian and Turkish.

These training materials are available at:

www.icmpd.org/830.html?&tx_icmpd_pi2[document]=246&cHash=2dcb2e35f4

Regional Standard for Anti-Trafficking Training for Judges and Prosecutors

In 2004, ICMPD created standardized training materials for judges and prosecutors in South Eastern European countries. The training manual, a training curriculum and training slides are available in Albanian, Bosnian, Bulgarian, Croatian, English, Hungarian, Macedonian, Romanian, Serbian, Slovenian and Turkish.

These training materials are available at:
www.icmpd.org/830.html?&tx_icmpd_pi2[document]=249&cHash=445c9d8c56

International Organization for Migration

Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking

This 2006 resource book is the result of an IOM training programme for law enforcement authorities implemented in Vienna. It contains good practices, recommendations and techniques on combating child trafficking based on the inputs of experts from the areas of law enforcement and medical science and experts from civil society. The resource elaborates good practices on:

- Age assessment/identification of child victims
- Investigative methods
- Interview techniques
- Cooperation between law enforcement authorities and NGOs/social service providers

The Resource Book is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=5787

Combating Trafficking in Persons in Cambodia: Training Manual for Law Enforcement and Court Officials

Under the "Promotion of human rights of victims of trafficking and sexual exploitation through legal/policy support" project funded by the Government of Italy, IOM compiled a training document for use by law enforcement and court officials in combating trafficking in persons. Although the manual is tailored to the domestic context in Cambodia, many of the techniques it describes are relevant to any country's efforts to combat trafficking.

More information about the work of IOM in Cambodia is available at:
www.iom.int/jahia/Jahia/pid/497

Other

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:
www.trainingforpeace.org/resources/vawc.htm

To Serve and Protect: Human Rights and Humanitarian Law for Police and Security Forces

(International Committee of the Red Cross)

This training manual can be consulted at:
www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/$File/ICRC_002_0698.PDF!Open

Crime Reduction Toolkit: Trafficking of People

(United Kingdom)

The Policing Organized Crime Unit of the United Kingdom Home Office established an online crime reduction toolkit as a practical measure to address trafficking in the United Kingdom. The toolkit is intended for use by the police, immigration officials, prosecutors, victim support and social services, local authorities, non-governmental organizations and other agencies that come into contact with human trafficking issues.

The toolkit is available at
www.crimereduction.gov.uk/toolkits/tp00.htm

Combating the Trafficking in Children for Sexual Purposes: a Training Guide (ECPAT)

The Europe Law Enforcement Group of ECPAT, a network of organizations and individuals working together to eliminate the commercial sexual exploitation of children, in the framework of its Programme against Trafficking in Children for Sexual Purposes in Europe and in cooperation with ECPAT International, has developed this detailed training guide for use by trainers of professional multi-stakeholder groups consisting of law enforcement personnel, social workers and caregivers. The training guide offers background information on necessary training skills and on how to develop an effective training programme. It also contains a 10-session training course on child-related trafficking, including background to the issue, definitions of both children and child trafficking, legal contexts, protection and assistance, roles of stakeholders and evaluation. The training sessions are complete with worksheet handouts, fact sheets and case studies.

The training manual is available at:
www.ecpat.net/eng/pdf/Trafficking_Report.pdf

Best Practice Manual on Investigation (INTERPOL)

The INTERPOL Expert Working Group on Trafficking in Women for Sexual Exploitation has compiled a manual of best practice for law enforcement investigators to train police in trafficking matters. The manual, distributed to all member States, was updated in 2006 to include information on investigating human trafficking for the purposes of sexual exploitation, forced labour or servitude and organ trafficking.

More information about the manual is available at:
www.interpol.int/Public/ICPO/FactSheets/THB02.pdf

Advanced Investigative Techniques of Human Trafficking Offences (Florida Department of Law Enforcement)

As part of an advanced course in investigating human trafficking, the Florida Department of Law Enforcement developed training in advanced investigative techniques (released on 10 May 2007) as part of its Criminal Justice Standards and Training Commission Advanced Training Program. This advanced course is intended to give officers in the state of Florida in the United States an overview of investigating the crime of human trafficking and provides a framework for initiating and conducting investigations into trafficking crimes.

The instructor's guide for this extensive course is available at:
www.fdle.state.fl.us/cjst/commission/May%202007/May07cm-Naples/PDF%20FIles/10-May07AGI-6A-1.pdf

The Crime of Human Trafficking: a Law Enforcement Guide to Identification and Investigation (International Association of Chiefs of Police)

The training guidebook released by the International Association of Chiefs of Police includes information on United States federal law, tools for identification of trafficking victims, investigation and response, and resources for assisting victims. In addition, a training video (available in VHS, DVD and downloadable online) has been created for use in conjunction with the guidebook. The video is divided into three segments; the first concerns the definition of the crime of trafficking, the second concerns identifying and responding to the crime, and the third concerns investigation of and interviewing concerning the crime.

The guidebook and the three segments of video training are available at:
www.theiacp.org/research/VAWPoliceResponse.html

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 the police and justice officials and staff of health and social services) 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 into 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 that 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 concerned with 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. 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.

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 outreach 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. More information on assisting victims of human trafficking is available in Chapter 8, Victim assistance.

Focus on the victim!

Sometimes States focus on victims for the information they can provide or their usefulness to the criminal justice system. In their rush to achieve objectives (such as to prosecute traffickers), the victim may be treated as a pawn and not as a human being in need of protection and assistance. This chapter discusses the need to not criminalize victims of trafficking (Tool 6.1) and raises issues to be considered before victims are identified (Tool 6.2). The chapter also offers guidelines on victim identification (Tool 6.3), indicators of trafficking (Tool 6.4) and an overview of the initial interview (Tool 6.5).

The IOM victim screening interview form is provided in Tool 6.6 and other examples of checklists to facilitate victim identification are contained in Tool 6.7. Both health-care

providers and law enforcers come into contact with potential victims and may have to interview and identify them. Tool 6.8 is intended to assist health-care providers and Tool 6.9 offers them specific tips on conducting interviews. Similarly, Tools 6.10 and 6.11 offer law enforcers guidance and tips on their conduct with respect to potential and actual victims of trafficking.

The chapter emphasizes interviewing which is ethical and safe for interviewees, including children (Tool 6.12) and recommends a process of certifying victims to facilitate both their access to assistance and the provision of assistance by victims to the criminal justice system (Tool 6.13). Lastly, recommended are resources to build capacity with respect to victim identification (Tool 6.14).

Tool 6.1 Non-criminalization of trafficking victims
Tool 6.2 Considerations before identification
Tool 6.3 Guidelines on victim identification
Tool 6.4 Indicators of trafficking
Tool 6.5 Initial interview
Tool 6.6 Screening interview form of the International Organization for Migration for the identification of victims of trafficking
Tool 6.7 Checklists to facilitate victim identification
Tool 6.8 Health-care providers' tool for identifying victims
Tool 6.9 Interviewing tips for health-care practitioners
Tool 6.10 Law enforcement tool for victim identification
Tool 6.11 Interviewing tips for law enforcers
Tool 6.12 Ethical and safe interviewing conduct
Tool 6.13 Victim certification
Tool 6.14 Training material

Tool 6.1 Non-criminalization of trafficking victims

Overview

This tool explains the need to avoid 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 subject 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.

Discussion

An essential element of protection of victims of trafficking and their rights must be that States do not prosecute or punish 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, trafficked persons are currently prosecuted for committing crimes 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 compelled to do so.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights provide 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

States should consider...

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 Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:
www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Neither the Organized Crime Convention nor the Trafficking in Persons Protocol includes an explicit obligation for States parties to refrain from criminalizing victims of trafficking. However, a number of non-binding guidelines (such as those recommended here by the United Nations High Commissioner for Human Rights), action plans (such as the OSCE Action Plan) 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.

Promising practice

Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings (Council of Europe *Treaty Series*, No. 197) was adopted by the Committee of Ministers on 3 May 2005 and opened for signature in Warsaw on 16 May 2005, at the Third Summit of Heads of State and Government of the Council of Europe.

Article 26 of the Convention concerns non-punishment of victims:

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

The Council of Europe Convention is available at:
www.coe.int/T/E/human_rights/trafficking/PDF_Conv_197_Trafficking_E.pdf

Tool 6.2 Considerations before identification

Overview

This tool briefly mentions issues that should be considered before the interview, to overcome various barriers to communication.

It is necessary to understand certain factors such as gender, immigration status, fear of reprisals, cultural background and the individual circumstances of potential victims, before beginning the process of identifying them as such.

Gender

Lack of power is a characteristic of all types of trafficked persons. It is exacerbated for women who hold weak social status in their country of origin and whose victimization may result in shame or loss of honour.

Immigration status

- Many potential victims fear that in accessing the criminal justice system, they will be exposed to the risk of deportation or other reprisals, such as incarceration.
- In countries where prostitution is illegal, people who are trafficked into the sex industry fear forced medical check-ups, forced re-socialization and/or imprisonment upon their return to their country of origin.
- Many trafficked victims are told by their traffickers that the authorities are complicit with their trafficking and will harm, arrest or detain them, thereby deterring the victim from seeking assistance.
- Before identifying victims of trafficking, it is necessary to acknowledge that members of immigrant communities are vulnerable to revictimization because of the fear of deportation.

Fear of reprisals

Traffickers often discourage victims from contacting the authorities by threatening them with physical or financial punishment, increasing working hours or removing "privileges" such as time off, sleep, food and amenities.

It should not be assumed that because a person is no longer in the situation of trafficking or in the country of destination that he or she is free of reprisals. Often traffickers use threats against victims' friends and family, and have access to them.

Relationship with the trafficker

Sometimes victims believe that after a period of abuse they will be able to pay off "debts" and earn money. Some think that the person or people who trafficked them are their recourse for help. In other cases, traffickers become involved in personal relationships with victims, sometimes even marrying them, as a means of controlling their victims.

Cultural background

Many members of migrant and minority communities do not trust the police. The reasons for this include the assumption of corruption, attitudes towards law enforcement in their country of origin and fear that law enforcement agents will not understand or respect their religion, culture or beliefs. Examples of these are practices of voodoo, juju, marabou and "witch doctors", important in some West African cultures, which can be misused and abused by traffickers. Many women and girls trafficked to Europe undergo powerful rituals obliging them to obey traffickers and repay "debts". Such significant cultural considerations are often disregarded by law enforcers when they are interviewing potential victims.

Individual circumstances and reactions

- Before commencing interviews, it is impossible to know the individual circumstances of an interviewee, but these circumstances affect how victims communicate (some may be collaborative and others entirely non-communicative) and how they react (some may be passive, others aggressive).
- Some victims will be suffering from post-traumatic stress disorder. Some victims may be addicted to drugs.
- Guidelines which are used when interviewing victims should be adaptable to the individual's specific circumstances.

Source: Anti-Slavery International, *Protocol for Identification and Assistance to Trafficked Persons and Training Kit,* available at:
www.antislavery.org/homepage/resources/PDF/PDFtraffic.htm

Tool 6.3 Guidelines on victim identification

Overview

This tool provides guidelines on identification of trafficked persons, as contained in the Recommended Principles of the United Nations High Commissioner for Human Rights.

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

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

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 Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Tool 6.4 Indicators of trafficking

Overview

This tool lists some indicators of trafficking, both relating to general situations of trafficking and specific indicators pertaining to particular kinds of exploitation.

In reference to the following list, some indicators will be present in some human trafficking situations and not in others. The presence or absence of indicators does not mean that human trafficking has been established or discounted. Rather, the presence of indicators should lead to further investigation.

Victims of trafficking can be found in various situations. You can play a role in identifying victims of trafficking.

General indicators

People who have been trafficked may:

- Believe that they must work against their will
- Be unable to leave their work environment
- Show signs that their movements are being controlled
- Feel that they cannot leave
- Show fear or anxiety
- Be subjected to violence or threats of violence against themselves or against their family members or loved ones
- Suffer injuries that appear to be the result of an assault
- Suffer injuries or impairments typical of certain jobs or control measures
- Suffer injuries that appear to be the result of the application of control measures
- Be distrustful of the authorities
- Be threatened with being handed over to the authorities
- Be afraid of revealing their immigration status
- Not be in possession of their passports or other travel or identity documents, as those documents are being held by someone else
- Have false identity or travel documents
- Be found in or connected to a type of location likely to be used for exploiting people
- Be unfamiliar with the local language
- Not know their home or work address
- Allow others to speak for them when addressed directly
- Act as if they were instructed by someone else
- Be forced to work under certain conditions
- Be disciplined through punishment
- Be unable to negotiate working conditions
- Receive little or no payment
- Have no access to their earnings
- Work excessively long hours over long periods
- Not have any days off
- Live in poor or substandard accommodations
- Have no access to medical care
- Have limited or no social interaction
- Have limited contact with their families or with people outside of their immediate environment
- Be unable to communicate freely with others

- Be under the perception that they are bonded by debt
- Be in a situation of dependence
- Come from a place known to be a source of human trafficking
- Have had the fees for their transport to the country of destination paid for by facilitators, whom they must pay back by working or providing services in that country
- Have acted on the basis of false promises

Children

Children who have been trafficked may:

- Have no access to their parents or guardians
- Look intimidated and behave in a way that does not correspond with behaviour typical of children their age
- Have no friends of their own age outside of work
- Have no access to education
- Have no time for playing
- Live apart from other children and in substandard accommodations
- Eat apart from other members of the "family"
- Be given only leftovers to eat
- Be engaged in work that is not suitable for children
- Travel unaccompanied by adults
- Travel in groups with persons who are not relatives

The following might also indicate that children have been trafficked:

- The presence of child-sized clothing typically worn for doing manual or sex work
- The presence of toys, beds and children's clothing in inappropriate places such as brothels and factories
- The claim made by an adult that he or she has "found" an unaccompanied child
- The finding of unaccompanied children carrying telephone numbers for calling taxis
- The discovery of cases involving illegal adoption

Sexual exploitation

People who have been trafficked for the purpose of sexual exploitation may:

- Be under 30 years old, although the age may vary according to the location and the market
- Move from one brothel to the next or work in various locations
- Be escorted whenever they go to and return from work, shops etc.
- Have tattoos or other marks indicating "ownership" by their exploiters

- Work long hours or have few if any days off
- Sleep where they work
- Live or travel in a group, sometimes with other women who do not speak the same language
- Have very few items of clothing
- Have clothes that are mostly the kind typically worn for doing sex work
- Only know how to say sex-related words in the local language or in the language of the client group
- Have no cash of their own
- Be unable to show an identity document

The following might also indicate that people have been trafficked for sexual exploitation:

- There is evidence that suspected victims have had unprotected and/or violent sex.
- There is evidence that suspected victims cannot refuse unprotected and/or violent sex.
- There is evidence that a person has been bought and sold.
- There is evidence that groups of women are under the control of others.
- Advertisements are placed for brothels or similar places offering the services of women of a particular ethnicity or nationality.
- It is reported that sex workers provide services to a clientele of a particular ethnicity or nationality.
- It is reported by clients that sex workers do not smile or do not cooperate.

Labour exploitation

People who have been trafficked for the purpose of labour exploitation are typically made to work in sectors such as the following: agriculture, construction, entertainment, service industry and manufacturing (in sweatshops).

People who have been trafficked for labour exploitation may:

- Live in groups in the same place where they work and leave those premises infrequently, if at all
- Live in degraded, unsuitable places, such as in agricultural or industrial buildings
- Not be dressed adequately for the work they do: for example, they may lack protective equipment or warm clothing
- Be given only leftovers to eat
- Have no access to their earnings
- Have no labour contract
- Work excessively long hours
- Depend on their employer for a number of services, including work, transportation and accommodation
- Have no choice of accommodation

- Never leave the work premises without their employer
- Be unable to move freely
- Be subject to security measures designed to keep them on the work premises
- Be disciplined through fines
- Be subjected to insults, abuse, threats or violence
- Lack basic training and professional licences

The following might also indicate that people have been trafficked for labour exploitation:

- Notices have been posted in languages other than the local language, except for key notices on health and safety, for example.
- There are no health and safety notices.
- The employer or manager is unable to show the documents required for employing workers from other countries.
- The employer or manager is unable to show records of wages paid to workers.
- The health and safety equipment is of poor quality or is missing.
- Equipment is designed or has been modified so that it can be operated by children.
- There is evidence that labour laws are being breached.
- There is evidence that workers must pay for tools, food or accommodation or that those costs are being deducted from their wages.

Domestic servitude

People who have been trafficked for the purpose of domestic servitude may:

- Live with a family
- Not eat with the rest of the family
- Have no private space
- Sleep in a shared or inappropriate space
- Be reported missing by their employer even though they are still living in their employer's house
- Never or rarely leave the house for social reasons
- Never leave the house without their employer
- Be given only leftovers to eat
- Be subjected to insults, abuse, threats or violence

Begging and petty crime

People who have been trafficked for the purpose of begging or committing petty crimes may:

- Be children, elderly persons or disabled migrants who tend to beg in public places and on public transport
- Are children carrying and/or selling illicit drugs

- Have physical impairments that appear to be the result of mutilation
- Be children of the same nationality or ethnicity who move in large groups with only a few adults
- Be unaccompanied minors who have been "found" by an adult of the same nationality or ethnicity
- Move in groups while travelling on public transport: for example, they may walk up and down the length of trains
- Participate in the activities of organized criminal gangs
- Belong to gangs composed of members of the same nationality or ethnicity
- Be part of large groups of children who have the same adult guardian
- Be punished if they do not collect or steal enough
- Live with members of their gang
- Travel with members of their gang to the country of destination
- Live, as gang members, with adults who are not their parents
- Move daily in large groups and over considerable distances

The following might also indicate that people have been trafficked for begging or for committing petty crimes:

- New forms of gang-related crime appear.
- There is evidence that the group of suspected victims has moved, over a period of time, through a number of countries.
- There is evidence that suspected victims have been involved in begging or in committing petty crimes in another country.

For more information on identifying victims, see the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:

www.unodc.org

Promising practice

Trafficking indicators card

(United States Immigration and Customs Enforcement)

United States Immigration and Customs Enforcement has produced credit card-sized plastic cards to facilitate the identification of potential traffickers and swift action. The card

prominently displays a hotline for reporting suspicious activity and also provides succinct information on:

- The differences between trafficking in persons and smuggling of migrants
- Trafficking indicators

  Is the victim in possession of identification and travel documents; if not, who has control of the documents?

  Was the victim coached on what to say to law enforcement and immigration officials?

  Was the victim recruited for one purpose and forced to engage in some other job?

  Is the victim's salary being garnished to pay off a smuggling fee? (Paying off a smuggling fee alone is not considered trafficking.)

  Was the victim forced to perform sexual acts?

  Does the victim have freedom of movement?

  Has the victim or family been threatened with harm if the victim attempts to escape?

  Has the victim been threatened with deportation or law enforcement action?

  Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?

  Can the victim freely contact friends or family?

  Is the victim a juvenile engaged in commercial sex?

  Is the victim allowed to socialize or attend religious services?

More information about the work of the United States Immigration and Customs Enforcement can be found at:

www.ice.gov

Tool 6.5 Initial interview

Overview

This tool, developed by Anti-Slavery International, provides seven steps to follow in conducting the initial interview with a potential victim.

The primary goal of the initial interview is to ascertain whether there are reasonable grounds to believe that the person being interviewed is a possible victim of trafficking. It is equally important to provide the person being interviewed with all relevant information that will

enable him or her to access support and assistance, and to make an informed decision about his or her future actions (i.e. whether he or she will assist law enforcers in investigation and prosecution). Lastly, law enforcement officials must ascertain whether there are any immediate safety risks for the individual being interviewed or others.

Step 1. Opening the interview

The intention is to establish a situation in which the potential victim feels safe enough to express himself or herself and to tell his or her story. The opening of the interview can be divided into two parts:

Introduction

Explain

- Who you are.
- The position you hold.
- That you are experienced in this kind of work.
- That you have met people in a similar situation already and more than once.

Explain the here and now situation

- Check the person's basic needs (pain, thirst, hunger, if feeling cold).
- Explain what exactly is happening here and now.

The focus on the "here and now" situation should enable the victim to understand what is happening and the situation he or she is in at that moment. If that is unclear to the person, it will be difficult to establish communication

Step 2. Providing information

Usually the best way to open an interview successfully is to make very clear exactly what you are doing and what the person being interviewed can expect:

Explain the purpose of the interview

- Explain the purpose of the interview and what you are trying to achieve.
- Later the person needs to be able to decide consciously what further steps to take (i.e. whether to report the crime, apply for a permit to stay, remain in this country or return to his or her home country etc.). He or she should be informed at this early stage of the interview about the options which are likely to be available to him or her. He or she will need to know how his or her statement will be used—if he or she agrees to make one—including who might have access to it.

Explain the transfer to the police station if the interview takes place there

- Explain the reasons and procedure promptly after arrival at the police station.
- Explore any steps that can be taken to assist privacy.

- Explain (if relevant) that he or she may at any time postpone or terminate the statement and leave the police station.

Explain the structure and the proceedings of the interview

- Explain how the interview will proceed, step-by-step.

Explain the role of an interpreter or cultural mediator if there is one

- What can be expected from an interpreter and what cannot?
- If a cultural mediator or confidante is involved, explain clearly to everyone what their roles are and what to expect.

Step 3. Gathering information

This step is to determine whether there are sufficient grounds to believe that the person is a victim of trafficking, and to determine what immediate support and assistance measures are needed:

Look at the problematic situation

- Look for inconsistencies or vagueness in his or her story and ask him or her to explain in more detail if needed.
- See if you can detect a call for help or fear of reprisals.

Find out who the person being interviewed is

- Let him or her tell you who he or she is—just a short history—and how he or she ended up here.
- Pay attention to the person and demonstrate a true interest in his or her story. Make sure that you reflect the emotional state of the person and, if necessary, name the emotions you observe if you think they might stand in the way.

Find out how he or she got into this situation

- Pay attention to exact time and space indicators.
- Try to find out if there are witnesses to individual facts or parts of the story.

Find out what the situation is now

- What situation is he or she in at the moment and what will it be like in the next few days, especially after speaking to the police?

Find out what he or she wants and expects

- What does he or she want at this moment?
- Look again for a possible call for help and make it concrete.
- What are the person's worries now?
- What worries him or her the most?

- Let the person know what you can do to help, when exactly this can be done, as well as what you cannot do. Let it rest for a while if necessary, but make sure you explain the options.

Point out possible signs of trafficking

- Listen carefully to what the victim is telling you.
- Use the guiding questions from the checklist when you think it is appropriate.
- Use the checklist provided or create your own checklist of indicators, which will help guide you through the case.

When asking the questions, consider how much information you need to gather at this stage.

It is important to pay attention to the person's reactions and emotions during this phase. Telling you his or her story can make the person anxious, angry or aggressive. You may notice signs of post-traumatic stress disorder. Are you prepared enough to respond to that?

Step 4. Updating the information

The aim of providing information at this stage is similar to that at earlier stages. It is to make sure that the possible victim is safe, and to build a relationship of trust with him or her so that you can work together.

Explain to the person what his or her actual situation is (after checking)

- After you have heard the person's story, you should be in a better position to offer more precise information about the options available to him or her.
- Briefly explain what the situation is if the person is an irregular migrant and is at the police station.
- Be honest about the consequences of being an irregular migrant, whether the person is cooperating or not.

Explain the relevant national policies

- Explain exactly how these policies affect him or her.
- If relevant, explain at this stage that you suspect the person may be a victim of trafficking and explain what this means.

Explain the permit to stay

- If there is a possibility of obtaining a permit to stay in the country (short-term or otherwise), you are obliged to explain this to the person.
- Make sure that you explain the policy in simple, understandable words.
- Do not forget to mention other possibilities and limitations.

Explain the criminal law

- Explain to him or her how the criminal law works in the country. Mention the possibilities, but also the consequences of criminal proceedings.

Explain the civil law

- Explain clearly that, apart from criminal proceedings, the person has other options, such as civil or humanitarian channels.
- Explain the risks, and the other opportunities for assistance that may exist. Be honest and realistic as to what the options may involve.

Step 5. Jointly deciding what further steps to take

Look into other, as yet unexplored, possibilities

- Clarify any possible inconsistencies and vagueness in the story. Look for points you may be able to use.
- Consider whether it is necessary to find out more information now, or whether this can be obtained at a later stage. Do you have enough for an initial assessment?

Develop the desired scenario

- Jointly develop the desired scenarios: application for a permit to stay, making a statement, going back to the home country etc.
- Define realistic and achievable goals. (What are the elements? What criminal offence was committed against him or her?)
- Identify what is needed for constructive change (any additional information, help or service at this stage?).

Define a joint approach

- Discuss possibilities and consequences and let the person decide if he or she wants to report the crime or would rather leave this decision to a later stage.
- Repeat the information about all other available options (criminal/humanitarian procedures) and let the person decide whether he or she will use them.
- Develop a concrete plan.
- Agree on a timeline and next steps.

After the exchange of information, it is crucial to evaluate. The detective will need to go through the possibilities and consequences for the victim once more. If necessary, make a list of pros and cons so the victim can see clearly what his or her options are. It is a good idea to let the victim rest and consider the options if a "reflection delay" procedure is available.

Step 6. Taking further steps

The highest priority is to ensure that the person is safe and that his or her health, physical, mental and social needs are taken care of.

Arrange a shelter

- Refugee or migrant's centre.
- Starting the asylum procedure.

- Custody (this should only be used when there are no other options available. Remember that the person is a victim of crime).

Arrange a short-term permit to stay

- Who starts the procedure? Is this well organized in your region?
- Fill in the necessary forms to support the victim's claims.
- Register the procedure and make contact with relevant stakeholders.
- Notify the public prosecutor, where relevant.

Guarantee safety

- Discuss in detail with the victim how his or her safety might be secured. The victim plays an important role in maintaining his or her own safety.
- Explain any safety arrangements step by step.
- Arrange for the victim to be referred outside of the region if he or she is in any danger.
- Make it clear if any personal information will be shared if he or she reports the crime, and with whom (chief detective, public prosecutor etc.).
- Consider the safety of others, for example the victim's close friends and family.

Arrange aid and assistance

- Is there an aid and assistance coordinator in this region?
- Could this person arrange for the victim to be placed within or outside of the region?
- When police matters are finished, will the coordinator pick up and accompany the victim (to different service providers)?
- Will the coordinator arrange all necessary assistance and communicate with relevant bodies? (regarding health, registration for benefits, personal documents etc.).
- Close cooperation between the service providers, NGOs and the police is recommendable.

Step 7. Closing the first interview

Gather feedback from the victim and make a clear agreement about follow-up. Before you close the first interview, let the victim provide feedback to you about the following:

Ask what he or she thinks about the situation here and now

- What emotional state is he or she in?
- Is there anything that should have been said but was not?

Come to an agreement about how you will stay in contact

- How can he or she contact you and what can he or she expect from you?
- How can you contact him or her?

Follow-up

- Set specific dates with him or her for follow-up interviews and phone calls.
- Agree next steps.

Make clear and specific agreements on any other relevant matters

Source: Anti-Slavery International, "Protocol for identification and assistance to trafficked persons and training kit", available at: www.antislavery.org/homepage/resources/PDF/PDFtraffic.htm

Tool 6.6 Screening interview form of the International Organization for Migration for the identification of victims of trafficking

Overview

This tool introduces the IOM screening interview form to assist officials of various agencies in the identification of trafficking victims, as well as other sample checklists and interview questions.

IOM has prepared the following screening interview form for the purpose of facilitating victim identification. Each section of the form is to be completed by the interviewer to aid in ascertaining whether the interview is a victim of trafficking.

Informed consent

Has the individual been informed that IOM and/or (name of partnering organization) reserves the right to share her/his individual case data for assistance purposes and only with IOM missions and partnering organizations involved in direct assistance? (Yes/No)

Has the individual further been informed that IOM reserves the right to make a limited disclosure of non-personal data based on the information collected at the interview to law enforcement for the purpose of rescuing other victims that remain under the control of traffickers or preventing other potential victims from being trafficked? (Yes/No)

Has the individual further been informed that IOM reserves the right to use (only anonymous, aggregate) data for research purposes? (Yes/No)

Has the individual's full and informed consent been obtained to conduct the screening interview based on information given regarding the role of the organization, the voluntary nature of the interview and the use of the information provided by the individual as outlined above? (Yes/No)

Note: Informed consent is necessary for all services, such as medical examination and procedure, health assessments, assisted voluntary returns and reintegration assistance.

If the individual is a minor, has the consent of the parent(s)/guardian(s) been obtained? (Yes/No)

Signature of interviewer: _____ Date: _____

Registration data

First name(s):

Family name(s):

Sex:

Country of birth:

Place of birth:

Last place of residence in country of origin:

Date of birth:

Is date of birth an estimate? (Yes/No)

Age (in number of years):

Citizenship:

Ethnicity:

Identity document (type, country, number and expiry date):

Case and interview data

Type of referring organization/individual: (NGO/international organization/law enforcement/immigration/Government/embassy/IOM mission/hotline/self-referral walk-in/family/friend/client/other)

Name/location of referring organization/individual:

Screening date:

Screening location:

Name of interviewer:

Name of organization/institution:

Contact details of interviewer:

Address and telephone number of referring organization:

Interviewee's language(s):

Interpreter? (Yes/No)

Name of interpreter:

If minor: Name(s), address(es) and telephone number of parent(s) or guardian(s):

Entry into trafficking

1. How did the individual enter the process (indicate multiple options if necessary)?

2. Did entry into the process involve recruitment? (Yes/No)

   If Yes, how was the contact initiated between the individual and her/his recruiter? (personal contact/employment agency/travel agency/Internet advertisement/newspaper advertisement/radio advertisement/television advertisement/other)

3. If labour migration, what activity did the individual believe he or she was going to be engaged in following arrival at the final destination (indicate multiple options if necessary)?

   Agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport/other)

4. What was the individual told would be their benefits following arrival at final destination?

   Salary (equivalent in $US per month)

   Other benefits

5. In which month/year did the individual enter into the process?

6. Minor at the time of entry into the process? (Yes/No)

7. From which place/country did the individual enter into the process?

8. What place/country is the last (or intended) destination?

9. Did the individual travel alone? (Yes/No)

   If No, who did the individual travel with (indicate multiple options if necessary)? (husband/wife/partner/relative/friend/recruiter/transporter/unknown persons/other)

10. Did the individual spend any time in transit place(s)/country(ies) (Yes/No)

    If Yes, who did the individual travel with? (husband/wife/partner/relative/friend/recruiter/transporter/unknown persons/other)

    Did he or she engage in any activity in this place(s)/country(ies) (Yes/No)

    If Yes, which activity in first/only transit place/country? (agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/marriage/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport sector/other)

    If more places/countries, add respective places and activities engaged in.

11. Were any of the following means used to control the individual?

Physical abuse	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Psychological abuse	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Sexual abuse	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Threats to individual	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Threat of action by law enforcement	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Threats to family	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
False promises/deception	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Denial of freedom of movement	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Giving of drugs	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Giving of alcohol	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Denial of medical treatment	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Denial of food/drink	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Withholding of identity documents	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Withholding of travel documents	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Debt bondage	Yes/No	If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
Other	Specify:	

Exploitation phase

12. What activity has the individual undertaken since her/his arrival in the last destination?

    Agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/marriage/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport sector/unemployed/other

13. How old was the individual when the activity began?

    How long did the only/most significant activity last?

14. Were any of the following means used to control the individual during the activity?

Physical abuse	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Psychological abuse	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Sexual abuse	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Threats to individual	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Threat of action by law enforcement	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Threats to family	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
False promises/deception	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Denial of freedom of movement	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Giving of drugs	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Giving of alcohol	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Denial of medical treatment	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Denial of food/drink	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Withholding of wages	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Withholding of identity documents	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Withholding of travel documents	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Debt bondage	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Excessive working hours	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other

If exploited for prostitution (sexual exploitation):

Denial of freedom to refuse client	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Denial of freedom to refuse certain acts	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Denial of freedom to use condom	Yes/No	If Yes, who by? Receiver/Exploiter/Clients/Other
Other means of control	Specify:	

15. Did the individual experience exploitation? (Yes/No)

16. If no exploitation took place, was there any indication of a real and substantial threat of exploitation?

    If Yes, what were the reasons that exploitation never took place? (Rescue/Escape/Other)

Exploitation phase

17. Additional corroborative materials

Police or other official reports	Yes/No
Identity documents	Yes/No
Travel documents	Yes/No
Medical reports	Yes/No
Copies of employment contract or recruitment offer	Yes/No
Personal writings by the individual	Yes/No
Hotline reports	Yes/No
If other, specify	Yes/No

18. Is the individual a victim of trafficking? Justify this decision.

19. Decision made by whom (specify names):

20. If the individual is a victim of trafficking, was the type of trafficking in-country or transnational? (in-country/transnational/both)

21. If the individual is a victim of trafficking, is he or she eligible for the IOM victim of trafficking assistance programme? (Yes/No)

22. If the individual is not a victim of trafficking, is he or she in need of assistance? (Yes/No)

    If Yes, what is the individual's situation? (Please specify all that applies.)

23. Additional remarks

Source: IOM. For more information about the work of IOM in victim assistance, see:
www.iom.int

Tool 6.7 Checklists to facilitate victim identification

Overview

This tool showcases checklists and screening forms which have been used in various situations by entities which have come into contact with victims. For the IOM screening interview form, see Tool 6.6.

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.

Victims of trafficking may 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 to ensure that victims can be identified as such by as many people as possible who come into contact with them.

Standardized checklist of the Philippine Centre on Transnational Crime

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?

Anti-Slavery International checklist

Recruitment

- A third party arranged the travel and work documents.
- The fees and/or interest rates charged by the recruiter(s) are excessive.
- The person is in debt and the family and/or loved ones back in the country of origin have been guaranteed re-payment of the debts.

- False, inaccurate or misleading information was provided by the recruiter or by the employer to the worker.

Personal documents and belongings

- The person's passport and/or other travel or identity documents were confiscated.
- The person's personal belongings were confiscated.
- The person has a false identity, work and/or travel documents.
- The person is prohibited from possessing and/or transferring earnings and savings.

Freedom of movement

- The person is not allowed to move freely without permission and/or control.
- The person is physically confined to his or her place of work or his or her location.
- The person has not been allowed to choose his or her place of residence.
- The person is subjected to arbitrary or unlawful interference with his or her right to privacy, family, home etc.

Violence or threat of violence

- The person faced psychological abuse (this includes verbal abuse).
- The person shows fear or signs of depression.
- The person faced physical abuse, including beatings and/or forced drug consumption (he or she has bruises or other signs of physical abuse).
- Sexual abuse and/or harassment, including rape.
- The person faced threats of violence or abuse, including threats to others, for example family at home.

Working conditions

- The terms of the employment contract or verbal agreement are not respected by the employer or the person was forced to sign a new contract upon arrival in the receiving country.
- The person is forced to perform tasks for which he or she was not recruited and/or which are not stipulated in the employment contract.
- The person is working excessive or irregular hours. The person is given no/insufficient leisure time.
- The person is exposed to occupational risks which compromise his or her health and safety. The worker is not provided with protective gear or equipment.
- The person is not provided with occupational health and safety information or training in his or her own language. The information and training provided are inadequate.
- The person is not paid for the work he or she does or the payment is delayed.
- The person is underpaid compared to wages promised or to the national minimum wage, where applicable.

- Significant deductions are made from the salary (i.e. to pay for placement fees or in the form of "compulsory savings").
- The person is denied benefits which he or she is entitled to (i.e. paid holiday, sick leave, maternity leave).
- Medical care is not provided or is inadequate (health-care information and services are inaccessible or do not meet the person's needs).
- Mandatory medical testing, pregnancy tests, forced abortion have been performed on the person/contraceptives were given by force.
- The person was dismissed without cause, notice and/or benefits.
- The person is accommodated in the same place as he or she works, against his or her will.

Living conditions

- The person is denied the right to choose or change his or her place of residence.
- The person pays an excessive amount of money for substandard accommodation.
- The person is denied the right to freedom of thought, conscience and religion/expression.
- The person is denied the freedom to seek and receive impartial information and ideas of all kinds.

This checklist is contained in the Anti-Slavery International "Protocol for identification and assistance to trafficked persons and training kit", available at:

www.antislavery.org/homepage/resources/PDF/PDFtraffic.htm

Screening interview questionnaire used by the Counter-Trafficking Information Campaign, Cambodia (Ministry of Women's Affairs, Cambodia, in conjunction with IOM)

Part 1. General information

- Province/district/village
- No. of years in village
- Before you were living here, where were you?
- Were you born in this village?
- Gender/age
- Marital status
- Language: can you read/speak/write/understand Khmer?
- What language do you use on a daily basis?

Part 2. Socio-economic, in-migration and out-migration

Socio-economic

- What are your main income-generating activities? (rice farming/chamkar [non-rice farming]/fishing/cutting wood/charcoal making/hunting/forest subproduction/animal husbandry/handicraft/mine work/tapping resin/domestic servant/farming and fruit collection/beer and karaoke servant/other)
- Has your family's income changed in the last 10 years?
- How has it changed?
- Why has your income changed?
- How much land for growing rice or chamkar do you own?
- Do most people enjoy living in their village?
- If No, why? (landlessness/debt/flooding/land conflict (including grabbing)/lack of food/drought/not secure in village/domestic violence/problem with neighbours/lack of education and training opportunities/other)

In-migration

- Are there any in-migrants in your village?
- Where do they move from? (other village/other commune/other district/other provincial capital/other province/Phnom Penh/other country)
- Do you enjoy the new settlement of in-migrants?
- If Yes, why? (can earn money/more job opportunities/access to training and education/access to food and products/other)
- If No, why? (lose land/land issues/debt bondage/environmental pollution/not secure/increase in incidents of rape/disturb spirit forests/robbery/tricks/impact on living/other)
- Are there any other problems relating to in-migration?

Out-migration

- Do people migrate from your village?
- What sex are the people who mostly migrate?
- What is the age range of migrants? (5-15/16-20/21-25/26-40/41 and above)
- Have any of your family members migrated?
- If Yes, who migrates? (father/mother/sister/brother/yourself)
- Why do your family members migrate? (for seasonal work after the harvest/landlessness/debt bondage/flooding/drought/personal security/problem with family, neighbours/domestic violence/opportunities for income generation/study and training/other)
- Where do people migrate to in the short term? (other village/other commune/other district/provincial capital/other province/Phnom Penh/Thailand/Lao People's Democratic Republic/Viet Nam/other)
- What type of work do they generally do?
- How long do they normally migrate for?

- Where do people migrate to in the long term? (other village/other commune/other district/provincial capital/other province/Phnom Penh/Malaysia/Thailand/Lao People's Democratic Republic/Viet Nam/other)
- Do villagers generally return to the same place of work?
- How do people travel when they migrate? (car/boat/taxi/plane/motorbike/bicycle/foot/other)
- Who arranges the travel for these migrants? (themselves/neighbours/relatives/friends/recruiter/other)
- Is the person that arranges the migration known and trusted within the community?
- Does this person receive payment? Generally how much?
- If not in cash, how is this payment made? (loan/bonded labour/other)
- Do migrants generally travel alone or in groups?
- Do the migrants ever do different work from what was promised?
- Do people generally benefit from migrating?
- If Yes, what benefit? (can earn money/food security/pay debts/pay for health care/buy land/send children to school/other)
- If No, why? (placed in brothel/forced labour/low wages/cheated/long working hours/bad treatment/physical abuse/health and medical problems/other)
- Did your family encounter any problems whilst you or a family member were away?
- What kind of problems did/does your family encounter? (cheated by others/poor living conditions/personal security/health problems/medical problems/financial problems/other)
- How did you solve this problem?

Part 3. Trafficking

- What do you understand by trafficking? (cheating/selling a person/selling of a woman or a child to a brothel/forced labour inside Cambodia/forced labour outside Cambodia/renting or selling children for begging/kidnapping/don't know/other)
- Is trafficking ever acceptable?
- Why is trafficking ever/never acceptable?
- Is trafficking illegal?
- Do any of the following happen in your village or area? (selling women or children to brothels/selling women or children inside Cambodia/selling women or children to labour outside Cambodia/kidnapping/recruitment of women, children, orphans, disabled persons as beggars/rape/abuses (human rights, sexual, land grabbing, other)/drug abuse)
- Who is most at risk of being trafficked within your community? (women in general/men/teenagers/girls/boys/orphans/disabled/elderly/other)
- Where are people most at risk of being trafficked? (village/travelling to destination/at the destination/other)
- Have you ever personally witnessed trafficking? If Yes, describe what you witnessed.
- If Yes, did you report it? Who did you report it to? If you didn't report it, why didn't you report it?

- If you or your family encounters trafficking, who would you report it to? (village or commune chief/police/non-governmental organization/women's affairs/social affairs/other)
- Who do you trust to help you if you have a problem with trafficking? (village chief/commune chief/police/community leader/non-governmental organization/women's affairs/social affairs/monks/teachers/achaar [former monks]/no one/other)
- If you or a member of your family migrate to work, would you worry about trafficking?
- What precautions would you take to protect yourself or a family member? (inform friends/relatives/neighbours/village chief/verify the promise)
- Have you ever seen or heard any information on trafficking?
- If Yes, what type of information? (poster/radio/television/video/non-governmental organization campaign/newspaper/comedy drama/family/friends/out-migrants/in-migrants/local authority/self-help group/ministerial department/other)
- Do you want more information about trafficking?
- If Yes, why? (to improve knowledge/to increase protection/to avoid problems/to share with others/other)
- If No, why?
- What kind of information on trafficking would you like? (picture/story book/help card/explanation by village focal point/poster/radio/television/video/non-governmental organization campaign/newsletter/comedy drama/village meeting/self-help group/other)

The above checklist has been extracted from the 2007 IOM/ASEAN report *ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons* (Annex 3). This publication is available at: www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=14477

Tool 6.8 Health-care providers' tool for identifying victims

Overview

This tool, developed by the United States Department of Health and Human Services, contains key sample questions health-care providers should consider asking to determine whether someone 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, at: www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/screen_questions.html

Tool 6.9 Interviewing tips for health-care practitioners

Overview

This tool reproduces some of the materials created by the United States Department of Health and Human Services for health-care practitioners to use in identifying and assisting victims of trafficking.

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 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 corrupt and 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, at: www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/identify_victims.html

Tool 6.10 Law enforcement tool for victim identification

Overview

This tool flags some key considerations, questions and indicators for law enforcers in identifying potential victims of trafficking.

Key questions for law enforcers (United States Department of Health and Human Services)

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 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?

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

Possible indicators of labour trafficking (International Association of Chiefs of Police)

The International Association of Chiefs of Police advises law enforcers to look for possible indicators of human trafficking where they may not expect it:

Businesses within your community:

- Could any serve as fronts for trafficking?

Building security:

- Is it used to keep people out or keep people in?

Working conditions:

- Do workers have freedom of movement?
- Do they live and work in the same place?
- Do workers owe a debt to their employers?
- Do the employers have control over their workers' immigration documentation?

Appearance and mannerisms of the workers:

- Are there signs of trauma, fatigue, injuries or other evidence of poor care?
- Are individuals withdrawn, afraid to talk or is their communication censored?

More information from the International Association of Chiefs of Police concerning the identification of victims is available at:
www.theiacp.org/research/VAWPoliceResponse.html

Recommended resources

For more information on victim identification, see the UNODC operational training manual to combat trafficking in persons, forthcoming in 2008, at:
www.unodc.org

Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking

(International Organization for Migration)

In order for children to be assisted effectively, individuals need to be identified as children by those that are providing assistance. Chapter II of the IOM resource book, on investigative methods, presents practical guidelines and good practice regarding age assessment of victims. The chapter offers various methodologies for assessing age, including psychological assessment, dental examinations, bone X-rays, and combinations of methods. It also presents international standards and examples of good practice in this respect.

The Resource Book is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=5787

Tool 6.11 Interviewing tips for law enforcement

Overview

This tool presents some elements to guide the work of law enforcement officials during their interviewing of persons they suspect have been trafficked.

Organization for Security and Cooperation in Europe minimum standards which should be in place for the initial interview

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 a State.

Law enforcement can identify persons as presumed trafficked persons during the first interview if they suspect that persons may have been trafficked.

Minimum standards which should be in place during the first interview

Regardless of the legal status of the person being interviewed, the following minimum standards should be in place:

- 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; A Practical Handbook* (Warsaw, OSCE, 2004), available at:

www.osce.org/documents/odihr/2004/05/2903_en.pdf

Anti-Slavery International principles on how to act during the initial interview

Anti-Slavery asserts that the following principles are key to gathering evidence successfully:

- Truthfulness
- Respect
- Competence
- Pragmatism
- Responsibility

Based on those principles, four tips are offered to law enforcement officers coming into contact with potential victims of trafficking:

Be professional and approachable

- Make sure that you are aware of appropriate national legislation, professional guidelines and contacts including shelters and non-governmental organizations for possible referral.

- Bear in mind gender barriers. It is preferable that female potential victims are interviewed by female officers.
- In cases where the persons being interviewed was a sex worker in his or her country of origin, the interviewer should consider:

  What is your opinion about that?

  How will you describe this in your police report?

  Does including such information have any negative consequences for the victim?

  It is important to note that finding out the truth is the main objective and that it is not essential to know the details of all the sexual experiences of the victim. It is essential that the interviewer does not stigmatize the interviewee and is not prejudiced against him or her.
- Potential cultural and language barriers should be thought about in advance and cultural mediators and language interpreters should be involved where possible.

Show respect

- The victim should always be treated with respect and listened to carefully. The interviewer should not make judgments about what the interviewee has done, or his or her views.
- The interviewee may have been through traumatic events which may be difficult for them to recount. The interviewer should minimize additional trauma or harm to the victim.
- Future actions and steps in process should be discussed and agreed with the victim, rather than told to and imposed on the victim.

Be clear

- Victims should be informed of the most important and relevant information early on and the interviewer should make clear what is possible and what is not, particularly regarding the role and limitations of the police.
- Unrealistic or false promises should never be made under any circumstance.

Be aware of safety implications

- The interviewer should try to speak to the person in private and should bear in mind the potential risk for the person giving an interview.
- Business cards should not be given to victims of trafficking, potential victims, suspected traffickers—law enforcement officers' business cards are found in the possession of traffickers all over the world.
- Interviewers should not stamp or mark a victim's passport as this can be the basis for prosecution in his or her home country.

Be there for the victim

- It is important to ensure that the potential victim knows what is happening at each stage of the process, that he or she has a say in the process and can regain control of his or her situation.

Source: Anti-Slavery International, Protocol for Identification and Assistance to Trafficked Persons and Training Kit, available at: www.antislavery.org/homepage/resources/PDF/Protocoltraffickedpersonskit2005.pdf

Tool 6.12 Ethical and safe interviewing conduct

Overview

This tool contains recommendations on conducting oneself in an ethical and safe way when dealing with victims and potential victims of trafficking.

Ethical and safety recommendations for interviewing trafficked women

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 for 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.

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 to 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 risk 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: *WHO Ethical and Safety Recommendations for Interviewing Trafficked Women* (Geneva, 2003), available at:

www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf

Ethical and safety recommendations for interviewing trafficked children

General guidelines for interviewing children who have been trafficked

UNICEF offers general guidelines applicable to all interviews with children who may have been trafficked:

- Interviews should take place as soon as possible after the allegation or suspicion of abuse emerges.
- The child should feel safe and supported during the interview.

- Girls and younger boys should be interviewed by female interviewers. Older boys can be interviewed by male interviewers.
- An adult that the child trusts should generally be present during the interview. This person's responsibility is to look after the child's best interests. It could be a guardian, a legal representative or, if neither has been appointed, a teacher or social worker.
- Interviews should take place in an informal setting and be conducted by interviewers trained to talk with children.
- Interviews should be in the child's own language. If this is impossible to organize, considerable care must be taken in arranging interpretation.
- If possible, interviews should not be too long to avoid tiring the child.
- The child's developmental stage and needs should be considered in planning the interview.
- The characteristics of the child, the child's family background and the interviewer should be considered in planning the interview.
- The children should be given an opportunity to tell their story in their own way, before they are asked explicit questions.
- The questions should begin with open questions and direct or leading questions should be reserved for the latter part of the interview.
- Props and cues may be used, but only with caution.

Source: These guidelines are available in the UNICEF *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, available at:

www.unicef.org/ceecis/protection_4440.html

Recommended guidelines when interviewing children of the International Organization for Migration

In *The IOM Handbook on Direct Assistance for Victims of Trafficking* it is recommended that the following guidelines be observed when interviewing minors (defined as anyone under the age of 18 years):

- Only staff trained in the special needs and rights of children should question child victims. Wherever possible, child victims should be questioned by staff of the same sex.
- Find out as much as possible about the child's case prior to the interview and make clear and friendly introductions (talking about something the child is familiar with helps to establish a rapport).
- Create a space that is safe and comfortable for conversation (include toys, books, games etc., to help build a rapport).
- Establish a rapport by talking about or doing things that are not related to the trafficking experience (e.g. discuss things that the child is familiar with, play games).
- Dedicate adequate time for discussions. Do not rush.

- Keep the atmosphere simple and informational (e.g. do not assume an air of interrogation or press for responses).
- Use appropriate and child-friendly language (adopt terms that the child uses).
- Explain things in a manner the child can easily comprehend (use visual aids where possible and appropriate).
- Questions should be adapted in order to take into consideration the age and mental capacity of the child.
- Begin with open-ended questions, allowing the child to give her/his own account. Avoid leading questions, e.g. "Did the person abuse you?", and use more open-ended questions, such as "What did the person do?".
- Do not pursue and press for details when there are signs that the child has told you all he or she knows. However, also bear in mind that children may leave information out if the right question is not asked, and will give the answer they believe the interviewer wants to hear.
- Interviews of minors should take place in the presence of a parent; in cases where this is not possible due to a parent not being present or where there is suspected or known family involvement in the trafficking, in the presence of a trained guardian, psychologist or social worker.
- Close the interview in a way that reassures the child that he or she has done well, and that you will be available whenever he or she needs to talk again.

Source: *The IOM Handbook on Direct Assistance for Victims of Trafficking*, available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Tool 6.13 Victim certification

Overview

This tool advocates for a process of certifying victims as such to enable them to access services and support more effectively.

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 for 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, no specific requirement or process is provided for 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, this 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 from a non-governmental organization.

Promising practice

Certification process in the United States

The following example of a certification process is 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, a victim 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 Citizenship 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, The Campaign to Rescue and Restore Victims of Human Trafficking, Fact sheet, available at:
www.acf.hhs.gov/trafficking/about/cert_victims.html

Another step taken in the United States to protect victims of crime has been the passage of regulations by the Department of Homeland Security, on 5 September 2007, making immigrant victims of crime immediately eligible for a U visa. These regulations came after a prolonged delay following the passage of the Victims of Trafficking and Violence Act of 2000, which stipulated that the U visa should be created. The U visa offers temporary legal status to undocumented immigrants who are victims of crime and are helpful in the investigation or prosecution of a crime. The U visa is available to immigrants who:

- Are victims of crimes which violate federal, state or local criminal laws, including trafficking
- Have suffered severe physical or mental abuse as a result
- Have been helpful, are being helpful, or are likely to be helpful in the investigation or prosecution of criminal activity

The U visa allows undocumented immigrants to feel safer in coming forward to report and testify, because it removes the fear of deportation, thereby increasing the effectiveness of law enforcement efforts in investigating and prosecuting crimes.

More information about the U visa is available at:
http://legalmomentum.org

Tool 6.14 Training material

Overview

This tool recommends various training materials which can be referred to in strengthening capacity to identify victims.

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 conducted to assist professional staff in identifying victims of trafficking and understanding how to assist them once they are known.

Recommended resources

Protocol for Identification and Assistance to Trafficked Persons and Training Kit

(Anti-Slavery international)

The third chapter of this 2005 manual offers training materials to assist in victim identification. This manual was designed specifically for front-line anti-trafficking workers and is a practical tool for identifying trafficked people. It provides basic, practical information for those who are likely to encounter victims of trafficking and contains lists of indicators, checklists and recommendations for interviewing trafficked people.

The manual can be downloaded at:
www.antislavery.org/homepage/resources/PDF/PDFtraffic.htm

The IOM Handbook on Direct Assistance for Victims of Trafficking

(International Organization for Migration)

Published in 2007, *The IOM Handbook on Direct Assistance for Victims of Trafficking* is a compilation of the wealth of IOM experience in assisting victims of trafficking. The Handbook provides guidance and advice, which can be adapted to different contexts and circumstances, on a range of victim assistance services, from the point of first contact through to the reintegration of victims. Chapter II of the Handbook deals exclusively with the screening of victims of trafficking.

The IOM Handbook on Direct Assistance for Victims of Trafficking is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Crime Reduction Toolkits

(United Kingdom Home Office)

Included among the United Kingdom Home Office Crime Reduction Toolkits, is a toolkit dedicated to addressing the crime of trafficking in persons.

Source: The Crime Reduction Toolkit on trafficking of people is accessible at:
www.crimereduction.gov.uk/toolkits/tp00.htm

The sections on victims are at:
www.crimereduction.gov.uk/toolkits/tp0205.htm

Anti-Trafficking Training for Frontline Law Enforcement Officers and Listening to Victims: experiences of identification, return and assistance in South-Eastern Europe

(International Centre for Migration Policy Development)

In 2006, ICMPD published *Anti-Trafficking Training for Frontline Law Enforcement Officers* with the objective of raising awareness of the crime of human trafficking as a serious crime and violation of human rights, and of enhancing the capacity of non-specialized police and border personnel to identify and properly treat victims of crime. This training material consists of two parts: the *Training Guide* (containing a curriculum of five units) and the *Background Reader* (comprising topics relating to trafficking relevant to police, border and customs officials).

Additionally, in 2007, ICMPD published a study entitled *Listening to Victims: Experiences of identification, return and assistance in South-Eastern Europe*.

These publications are available at:
www.anti-trafficking.net

Trafficking Training Modules

(Stop Violence Against Women)

Stop Violence Against Women (a project of Minnesota Advocates for Human Rights) offers introductory-level training on trafficking in women on its website. The training modules are intended for general awareness-raising, to serve as an introduction to more comprehensive training and to aid in the creation of such training. Sample training exercises are provided.

Source: This resource is available in English, Bulgarian and Russian at:
www.stopvaw.org/Trafficking_Training_Modules.html

National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: a Practical Handbook

(Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe)

The OSCE Office for Democratic Institutions and Human Rights published a handbook in 2004 which provides guidance on how to design and implement sustainable structures to prosecute traffickers and support victims of trafficking. It addresses political, legal and practical elements to be considered when creating responses to trafficking.

The handbook is available in Albanian, English, French, Russian, Spanish, Turkish and Uzbek at:
www.osce.org/item/13591.html

Human Rights and Law Enforcement: Manual for Human Rights Training for the Police

(Office of the United Nations High Commissioner for Human Rights)

This material in the *Professional Training Series* has three components: a manual, a trainer's guide and a pocket book of human rights standards for the police. The trainer's guide is a practical tool for trainers including tips and techniques for trainers as well as model presentations which can be adapted.

These resources in the *Professional Training Series* are available at:
www.unhchr.ch/html/menu6/2/training.htm

The Crime of Human Trafficking: a Law Enforcement Guide to Identification and Investigation

(International Association of Chiefs of Police)

The training guidebook released by the International Association of Chiefs of Police includes information on United States federal law, tools for identification of trafficking victims, investigation and response, and resources for assisting victims. In addition, a training video (available in VHS, DVD and downloadable online) has been created for use in conjunction with the guidebook. The video is divided into three segments; the first concerns the definition of the crime of trafficking, the second concerns identifying and responding to the crime, and the third concerns investigation of the crime and interviewing.

The guidebook and the three segments of video training are available at:
www.theiacp.org/research/VAWPoliceResponse.html

chapter 7

IMMIGRATION STATUS OF VICTIMS AND THEIR RETURN AND REINTEGRATION

Trafficked persons very often do not have a regular residence status in the State of destination, either because they arrived in the country of destination illegally or because their residence permit has expired. As a result of this they may fear being expelled from the State if they report their victimization to the authorities or if their illegal presence in the State comes to the attention of the police in the course of an investigation. This fear—which is a justified fear in States which are unwilling to help trafficked persons regularize their residence status—denies victims access to protection and also means that they are not available to assist in the prosecution of traffickers. Tool 7.1 discusses the value of granting victims a "reflection period" during which they can begin to recover from their experience and make informed decisions about their future. Tool 7.2 discusses the residency status of trafficking victims according to the Trafficking in Persons Protocol and explores options for affording trafficking victims temporary or, less commonly, permanent residence permits.

When it is decided that it is appropriate to return victims to their country of origin, due consideration for their well-being and safety must extend to their successful reintegration. To that end, Tool 7.3 offers some insight into the challenges which trafficked victims face on returning to their country of origin. In the light of these challenges, Tool 7.4 discusses the obligations of States with respect to the return and reintegration of victims, as articulated by article 8 of the Trafficking in Persons Protocol, and Tool 7.5 provides recommended human rights guidelines with respect to fulfilling those obligations. Tool 7.6 addresses situations where victims of trafficking are facing deportation. Tool 7.7 discusses some mechanisms which should ideally be in place to ensure the successful return and reintegration of victims of trafficking and Tool 7.8 provides an overview of the complicated process of returning and reintegrating victims of trafficking back into their home community. Lastly, Tool 7.9 and Tool 7.10 respectively focus on the special circumstances of victims of trafficking who are refugees and of victims of trafficking who are children.

REFLECTION PERIOD AND RESIDENCE PERMIT

Tool 7.1 Reflection period
Tool 7.2 Temporary or permanent residence permit

RETURN AND REINTEGRATION

Tool 7.3 Understanding the challenges for returnee victims of trafficking
Tool 7.4 Obligations of States
Tool 7.5 Human rights considerations with respect to the return and reintegration of victims
Tool 7.6 Victims facing deportation
Tool 7.7 Mechanisms for the safe return and reintegration of victims
Tool 7.8 The return and reintegration process
Tool 7.9 Protecting refugee victims of trafficking
Tool 7.10 Return and reintegration of children

REFLECTION PERIOD AND RESIDENCE PERMIT

Tool 7.1 Reflection period

Overview

This tool discusses the purpose and value of a reflection period for victims. It offers guidelines for the provision of such reflection periods and showcases some promising examples.

The reflection period is now recognized as an effective best practice and humanitarian measure aimed at protecting the human rights of trafficked persons. The reflection period grants victims of trafficking the possibility of beginning to recover from their experiences and of making an informed decision about whether to assist and cooperate in criminal proceedings. For the many victims of trafficking who have irregular immigration status, the reflection period ensures that they can be provided with appropriate assistance and support, such as secure housing, psychological counselling, medical and social services and legal consultation.

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 intelligence-gathering and the prosecution of traffickers.

The granting of a reflection period, followed by the granting of a temporary or permanent residence permit, is ideally afforded to a victim of trafficking regardless of whether the trafficked person is able or willing to give evidence as a witness.

Special attention should be paid to child victims of trafficking; their best interests should be the primary consideration in all policies and procedures involving them.

Discussion on the reflection period in destination countries

(Global Alliance against Trafficking in Women)

The GAATW e-Bulletin Issue 5 concerning access to justice for trafficked persons focused on the topic of a reflection period in destination countries, which it asserts is paramount in helping trafficked persons recover from their experience without feeling the pressure of detention and/or deportation, thereby enabling them to make informed choices about their future.

During the reflection period, presumed trafficked persons are afforded legal status and protection from detention and deportation in destination countries. During this period, trafficked persons have access to certain support services, such as appropriate and secure housing, psychological counselling, social services and health care, as well as professional advice, including legal counselling. These measures are intended to help them to recover from the trauma of having been trafficked and to remain safe from the traffickers. The reflection period is intended for trafficked persons to recover sufficiently from their experience that they might be willing and able to talk about it and to make informed decisions about whether to take legal action against the trafficker and to pursue legal proceedings regarding compensation claims. Since such decisions have serious and far-reaching consequences for both the life of the person concerned and for the safety of the family members in the country of origin, the trafficked person needs to have time to weigh all the possible consequences of their choice. Advocates with expertise in anti-trafficking and victim protection recommend a reflection period of not less than three months, as is granted by some destination countries.

Key advantages of the reflection period:

- Trafficked persons are able to access basic services, information and legal counselling and can receive support from public social services
- Trafficked persons are recognized as victims of crime and therefore granted the protection measures provided by law
- It increases the ability of the police to gather evidence in investigations
- It allows trafficked persons to make informed decisions about their future

Key disadvantages of the reflection period:

- It is limited in time and this puts pressure on trafficked persons in making decisions on key issues for their future
- After the reflection period has expired, trafficked persons who are returned to their countries of origin have to start again from scratch, often suffering revictimization and reprisals by traffickers
- For the law enforcement authorities, this means that they will miss out on information for effectively combating trafficking

GAATW e-Bulletins are available at:

www.gaatw.net

Opinion on the reflection period issued by the European Commission Expert Group on Trafficking in Human Beings

On 16 April 2004, with a view to determining the role of the European Commission in the negotiations concerning a European convention on action against trafficking in human beings, the Commission's Expert Group on Trafficking in Human Beings issued an

opinion on a reflection period and residence permits for victims of trafficking in human beings. In the opinion, the Expert Group emphasized the status of victims of trafficking as victims of serious crime. In the background to its opinion, it stated that a reflection period, followed by the issuing of a temporary residence permit, should be granted regardless of whether the trafficked person was able or willing to give evidence as a witness in legal proceedings. That, it said, assisted States in fulfilling their obligation to protect the human rights of trafficked persons and avoided the risk of treating such persons as purely instrumental in the criminal justice system.

In the opinion, the Expert Group states that:

- A reflection period should be granted immediately to all those who there is reason to suspect have been trafficked. The purpose of such a reflection period includes identification of whether a person has been trafficked (as well as enabling the person to recover and to decide upon his or her future course).
- The reflection period should be for not less than three months and should include an obligation to inform the affected person of the assistance services available to him or her.
- A residence permit should be granted to identified trafficked person following the reflection period for a period of at least six months, with the possibility of renewal, irrespective of his or her willingness to act as a witness.
- During the period of validity of the temporary residence permit, trafficked persons should have access to appropriate and secure housing and medical, psychological, social, legal and financial assistance, and be authorized to have access to the labour market and to vocational training and education in order to enable them to recover and take back control of their lives.
- When the temporary permit expires, if no other kind of residence permit can be issued on the basis of ordinary domestic law relating to aliens, member States should issue a residence permit on humanitarian grounds (in particular to vulnerable persons such as minors and victims of sexual violence or human rights abuses, and in particular if there is reasonable ground to believe that the victim's life, health or personal liberty will be under threat upon return to his or her country of origin).
- Child victims of trafficking should be equally entitled to temporary and/or permanent residence permits and corresponding rights, independent of the child's willingness or capacity to cooperate with the authorities, consistent with the principle of the "best interests of the child".

The full opinion of the Expert Group is available at:

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

Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings was opened for signature in Warsaw on 16 May 2005. Article 13 of that Convention addresses the provision of a recovery and reflection period.

Article 13. Recovery and reflection period

1. Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorize the persons concerned to stay in their territory.

2. During this period, the persons referred to in paragraph 1 of this article shall be entitled to the measures contained in article 12, paragraphs 1 and 2.

3. The Parties are not bound to observe this period if grounds of public order prevent it or if it is found that victim status is being claimed improperly.

The Council of Europe Convention on Action against Trafficking in Human Beings is available at:

http://conventions.coe.int/Treaty/EN/Treaties/Word/197.doc

Guideline on reflection periods

(International Centre for Migration Policy Development)

ICMPD asserts that victims should be offered a reflection period in order to give them time to recover and to stabilize. The reflection period should be followed by a temporary residence permit. Both the reflection period and the residence permit should be granted to victims regardless of their willingness to cooperate as witnesses and regardless of whether or not the perpetrators are prosecuted.

What should be achieved?

During the recovery period, a victim should have access to safe accommodation and to all necessary assistance (e.g. free medical and legal aid, interpreters, contact with relevant service providers in the country of origin etc.).

Victims should be entitled to a reflection period of at least 30 days and up to three months, during which they can stabilize and reorientate themselves. A reflection period has a twofold aspect:

- To raise the victims' confidence in the State and its ability to protect their interests by offering them the possibility to begin to recover and to take an informed decision about whether to:

  Assist in criminal proceedings

  Pursue legal proceedings for compensation claims

  Enter a social protection programme

  Opt for immediate return home

- To enable the authorities to identify victims of trafficking, including determining whether or not the person is in fact a victim of trafficking.

Following the reflection period, victims should be granted a temporary residence permit for a period of at least six months, with the possibility of renewal, independent of the victim's willingness to cooperate as a witness. If the victim decides to be a witness in the criminal case, the temporary residence permit should last until the end of the proceedings. Residence permits should not be limited to victims who have suffered serious exploitation or limited to a group of victims who are ambiguously defined under the law.

Who should be involved?

Law- and policymakers, Ministry of Foreign Affairs, Ministry of Interior, other governmental institutions, non-governmental organizations, childcare services and education training institutions.

How should it be implemented?

The following measures should be considered:

- Creation of a legal and political framework to offer a reflection period of not less than three months for victims to recover, followed by a temporary residence permit of at least six months
- Granting a reflection period of up to three months, which should include the obligation to refer victims of trafficking to service agencies that can offer assistance such as financial support and integration programmes
- States may consider providing various governmental departments and social protection organizations that work closely with victims of trafficking with the ability to suggest the grant of a residence permit to the respective competent authorities through a formal agreement so as to ensure efficient cooperation and to reduce the authority's discretionary power
- Ensure sufficient monetary allocations in a national budget to fund provision of residence permits and all social benefits, including social security, job training, medical and psychological assistance and legal aid

- Granting of a long-term resident permit if:

  Repatriation would pose a serious risk to the safety of the victim of trafficking and/or her or his family members or if repatriation would cause the risk of being prosecuted in the home country for trafficking related offences

  A social assistance programme has been successfully completed and employment has been found

  Asylum has been applied for in accordance with international refugee law

- If a victim of trafficking is granted a temporary or permanent residence permit, the victim of trafficking should be entitled to family reunification with her or his minor children, who should be granted a residence permit on the same conditions as the victim of trafficking
- If there are substantial reasons to believe that family members of the victim of trafficking, including possible children, are at risk in the home country, such family members should be entitled to temporary or permanent residence on the same conditions as the victim of trafficking
- Conducting risk assessment before deporting or returning a victim of trafficking or deciding upon an application for a permanent residency permit on humanitarian or asylum grounds.

Source: ICMPD Guidelines for the Development of a Comprehensive National Anti-Trafficking Response (Vienna, 2006), available at:

www.childtrafficking.com/Docs/icmpd2_061106.pdf.

ICMPD has also produced a study entitled *Listening to Victims: Experiences of Identification, Return and Assistance in South-Eastern Europe*, which is available at:

www.childtrafficking.com/Docs/Listening_to_victims_1007.pdf

Guideline on a "reflection delay"

(Organization for Security and Cooperation in Europe)

Where victims of human trafficking have been able to escape their situation, whether as a result of police intervention or in other ways, experience has shown that for various reasons they are often unable to talk about their suffering and thus unable to present themselves as victims. Therefore, an important step is to establish a time period during which presumed trafficked persons are afforded legal status and protection from detention and deportation measures.

During this period, the victims will need access to certain support services, such as:

- Appropriate and secure housing
- Psychological counselling
- Social services and health care
- Professional advice, including legal counselling

This period may enable victims to pursue legal proceedings for compensation claims. The reflection delay also enables victims to consider in a less pressured manner whether they are prepared to testify against the perpetrator. Since this constitutes a far-reaching decision with serious consequences for both the life of the person concerned and for the safety of family members in her or his country of origin, the person concerned should have time to weigh all the possible consequences of her or his choice.

Anti-trafficking and victim-protection experts advocate a reflection delay of not less than three months.

Source: National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook (Warsaw, OSCE, 2004), available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe

(United Nations Children's Fund)

UNICEF clearly states in this reference guide that child victims of trafficking have as much right to a recovery period as adult victims. However, law enforcement officials and persons responsible for the administration of justice are required to consider the paramount concern of "the best interests of the child". This means that at the end of a recovery period, responsible persons cannot expel or deport a child without considering what is in the best interests of the child or children concerned. For more information see Tool 7.10.

The complete guide is available at:

www.unicef.org/ceecis/protection_4440.html

Promising practice

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 residency document called a "declaration of arrival" ("aankomstverklaring") for a three-month period. One month before the expiry of this "declaration of arrival", the Immigration Office makes enquiries of the Prosecutor's Office and, if the person is considered to be a trafficked person and the

complaint against the trafficker is still under judicial investigation, the Immigration Office may approve the issuance of a second temporary permit of stay, which is valid for six months. With either of these documents, the victim is allowed to access the labour market. The victim will also receive social welfare and have the right to education and to legal and psychological assistance.

See:
www.antislavery.org/homepage/resources/humantraffic/Belgium.pdf
and www.enawa.org/NGO/Blinn_Final_Report.pdf

Czech Republic

The Government of the Czech Republic provides a 30-day reflection period during which victims can decide whether or not to cooperate with law enforcement efforts against traffickers. Victims who assist in the criminal justice process are granted temporary residence and work visas for the duration of the criminal proceedings and upon conclusion of the trial may apply for permanent residence.

Georgia

Under Georgian law, a victim of trafficking is entitled to a 30-day reflection period in which to decide whether he or she wants to cooperate with law enforcement bodies in proceedings relating to the crime. This reflection period starts on the date on which the person applies to a shelter, law-enforcement body or other relevant institution. During this period, article 371 of the Georgian Criminal Code exempts the person from any criminal liability for refusing to testify as a witness or victim.

www.stopvaw.org/Measures_and_Actions_Taken_by_Georgia_against_Trafficking_in_Persons_-_2006.html

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.

www.enawa.org/NGO/Blinn_Final_Report.pdf and

www.kok-potsdam.de/index.php?idcat=54&lang=3&PHPSESSID=afd0c53dec7cef99b5ba0f6385bc6ba

Moldova

Law No. 241-XVI of 20 October 2005 on Preventing and Combating Trafficking in Human Beings grants a reflection period of 30 days in Moldova, during which time the

implementation of any expulsion order is prohibited. Protection and assistance services are not to be conditioned upon the willingness of victims to make statements and participate in the prosecution of traffickers. By virtue of article 24 concerning protection and assistance to foreign citizens and stateless persons who are victims of trafficking, such persons are entitled to a reflection period of 30 days, to psychiatric and psychological counselling, and to medical and social assistance. Such persons are also to enjoy free of charge legal assistance for the exercise of their rights at all stages of criminal proceedings and to pursue their civil claims and lawsuits against persons who perpetrated crimes connected to trafficking, as provided by the Moldovan Criminal Code.

More information about the reflection period in Moldovan law is available at: www.legislationline.org/legislation.php?tid=1&lid=7648

Montenegro

The "Instruction on the conditions and the manner of regulating the residence of foreign citizens—victims of trafficking" issued by the Ministry of the Interior of the Republic of Montenegro grants victims of trafficking a three-month period of recuperation and reflection.

www.vlada.cg.yu/eng/antitraf/vijesti.php?akcija=vijesti&id=10133

Netherlands

Under the B-9 Regulation, the reflection period allowed for victims of trafficking is three months. During this period, persons are to be provided with appropriate housing, medical and legal assistance, and counselling. During this period, victims also receive a monthly allowance through the Reception of Asylum Seekers Agency, to provide for their living costs. A key concern is the exclusion from protection under the B-9 Regulation of victims who do not cooperate in the investigation and prosecution of traffickers.

Norway

Measure No. 7 of the Government of Norway's 2006-2009 Action Plan to Combat Human Trafficking concerns the extension of the reflection period to six months. Prior to the introduction of this measure, victims were offered a 45-day reflection period. Under Measure No. 7 of the Action Plan, the Government wishes to extend the reflection period so that presumed victims of trafficking are granted a temporary residence and work permit for up to six months. A new temporary work permit for one year is proposed if the person has broken away from the people responsible for the trafficking and a police investigation has been initiated. More information about this measure is available at:

www.regjeringen.no/en/dep/jd/Documents-and-publications/Reports/Plans/2007/Stop-Human-Trafficking.html?id=458215

Portugal

Victims of trafficking are allowed a reflection period of from 30 to 60 days to decide whether or not they will press charges against their trafficker(s). Such persons have a right to a one-year residence permit, regardless of their decision.

Tool 7.2 Temporary or permanent residence permit

Overview

This tool discusses the residence permits available to victims of trafficking. It introduces article 7 of the Trafficking in Persons Protocol and offers European responses to the issue of residence permits. The tool also summarizes discussion by the GAATW on residence permits, reproduces Anti-Slavery International recommendations on this issue and showcases some measures which countries have adopted in relation to granting residence permits to victims of trafficking.

Article 7 of the Trafficking in Persons Protocol, on the status of victims of trafficking in persons in receiving States, 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. Such measures can have a strong effect on victims coming forward to testify against traffickers. They also facilitate non-governmental organizations' encouraging victims to whom they provide services to report incidents to the Government.

Article 7 of the Trafficking in Persons Protocol

Status of victims of trafficking in persons in receiving States

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.

Although there is no obligation on the part of States parties to the Convention to adopt legislative measures relating to the status of victims, where such measures have been adopted they 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.

Residence permits for trafficked persons are often referred to as "humanitarian residence permits" and may be issued either on a temporary or a permanent basis. A number of international instruments offer grounds for the provision of such permits; They are:

- Declarations
- Conventions and guidelines of the United Nations, including

Specific clauses of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990, General Assembly resolution 45/158, annex)

- Politically binding documents of the Council of Europe, the European Union and OSCE.

While the emphasis in these documents is on providing a reflection period or temporary residence to assist the prosecution during criminal proceedings against the offender, often other provisions are made for victims to remain temporarily in the country to which they have been trafficked, whether they participate in legal proceedings there or not, and to remain permanently in cases where humanitarian considerations come into play.

Discussion of residence permits in destination countries

(Global Alliance against Trafficking in Women)

Residence permits are normally granted after the reflection period is over and are linked to the decision of the trafficked person to cooperate with the law enforcement authorities in criminal proceedings. During the period covered by the residence permit, victims have access to safe housing, social assistance and counselling. Residence permits can be short- or long-term:

- Short-term residence is associated with the reflection period and is intended to allow trafficked persons to recover and consider their different options. It should not be conditional on cooperation with the authorities.
- Long-term residence goes beyond the reflection period and results in a substantially better level of protection for the trafficked person who cannot or does not want to return to the home country. It makes it easier for trafficked persons to have access to the labour market and/or training and gives them a feeling of security that they will not be forced back to their countries of origin at an early date. Long-term residence is normally linked to the willingness of the trafficked person to cooperate with the law.

Advantages of residence permits in destination countries:

- Having a residence permit in the country of destination eventually enhances the co-operation of trafficked persons with the authorities as they feel secure and take informed decisions.
- Victims have access to secure housing and medical, social, psychological, legal and financial assistance, as well as access to the labour market and education.

Disadvantages of residence permits in destination countries:

- Residence permits are linked to the willingness of trafficked persons to participate in criminal proceedings and to provide evidence for the prosecution.
- Residence permits are normally limited to victims, and family members cannot benefit.

Source: GAATW, Access to Justice for Trafficked Persons e-Bulletin Issue 5, available at:

www.gaatw.net/atj/ebulletin/AtJ_5_August_12_2007.pdf

Anti-Slavery International recommendations regarding residency status for trafficked persons

Recommendation 9

States should ensure their immigration service establishes a special section to deal with trafficking, issue residency permits to trafficked persons and coordinate with the police, prosecution and those supporting trafficked persons.

Recommendation 10

States should require law enforcement officials who come into contact with individuals who are suspected to have been trafficked, to refer such persons to a specialized centre or non-governmental organization that can address or assess their mental and physical health needs, inform them of their rights to a reflection delay and explain clearly their legal rights and document details of their personal experience and the specific violations committed against them.

Recommendation 11

States should provide the right to a reflection delay of no less than three months in cases where there are indications that trafficking has occurred.

Recommendation 12

States should ensure that trafficked persons who are in the country during a reflection delay are able to access basic services and support.

Recommendation 13

States should make residency status for a term of no less than three years available for any trafficked persons who have been victims of serious abuse/harm, or if they are in danger of further harm (through stigmatization, discrimination, risk of reprisals or likelihood of being retrafficked) or are assisting the investigation or prosecution of traffickers.

Recommendation 14

States should allow trafficked persons who have been resident legally in the country for three years to be eligible for permanent residency.

Recommendation 15

Trafficked persons should be informed of their right to asylum, and be granted asylum in appropriate cases.

Recommendation 16

Immigration services should systematically collect and record information regarding the number and type of residency permits issued to trafficked persons, especially concerning the number of persons who file complaints against traffickers.

Source: Human Trafficking, Human Rights: Redefining Victim Protection (Anti-Slavery International, 2002), downloadable at:

www.antislavery.org/homepage/resources/humantraffichumanrights.htm

Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings was opened for signature in Warsaw on 16 May 2005. Article 14 of that Convention discusses residence permits.

Article 14. Residence permit

1. Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

   (a) The competent authority considers that their stay is necessary owing to their personal situation;

   (b) The competent authority considers that their stay is necessary for the purpose of their cooperation with the competent authorities in investigation or criminal proceedings.

2. The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.

3. The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.

4. If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permit in conformity with paragraph 1.

5. Having regard to the obligations of Parties to which article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

The full text of the Council of Europe Convention on Action against Trafficking in Human Beings is available at:

http://conventions.coe.int/Treaty/EN/Treaties/Word/197.doc

Council of the European Union directive on the residence permit

The purpose of Council of the European Union directive 2004/81/EC of 29 April 2004 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 fulfils the necessary criteria, a residence permit of limited duration can be issued, linked to the length of investigations or judicial proceedings.

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. The duration of the reflection period is to be determined by national law.

Article 7 states that, during the reflection period, 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, 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, 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.

Article 8 establishes 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. Article 11 provides that 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:

www.unicri.it/wwd/trafficking/legal_framework/docs/CouncilDirective200481EC.pdf

Promising practice

States have introduced residence permits for trafficked persons based on differing approaches, restricting in some instances the type of victim who may benefit from such permits or 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.

Canada

The Government of Canada offers various avenues for assisting victims of trafficking. The temporary residence permit is intended to provide a reflection period for the victim and an

investigative window for law enforcement to define whether there is enough evidence to pursue a trafficking case. In June 2007, the Canadian Ministry of Citizenship and Immigration introduced new measures to help assist victims trafficked into Canada. The new measure extends the length of the temporary residence permit for victims to 180 days, up from 120. Depending on individual circumstances, this visa can be renewed at the end of the 180-day period. Victims of trafficking with a temporary residence permit have access to federally funded emergency medical services, psychological and social counselling and other programmes and services, such as legal assistance. Victims of trafficking are eligible to apply for assistance from funds maintained by the provincial governments for assistance to victims. Under the new measures announced in June 2007, human trafficking victims are now also able to apply for a work permit to protect them from revictimization. The fees for work permits are waived for holders of this special temporary residence permit. In addition to these measures, and depending on their particular circumstances, there are a number of other avenues that possible victims of trafficking may pursue. For example, they may apply for permanent residence from within Canada through the refugee determination process, on humanitarian and compassionate grounds or, over time, as members of the permit holder class.

More information about the temporary residence permit is available on the Citizen and Immigration Canada website: www.cic.gc.ca

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 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: www.antislavery.org/homepage/resources/humantraffic/italy.pdf and www.enawa.org/NGO/ Blinn_Final_Report.pdf

Montenegro

The Ministry of the Interior of the Republic of Montenegro issued an "Instruction on the conditions and manner of regulating the residence of foreign citizens—victims of trafficking" which sets out procedures for the granting of three-month, six-month and one-year residence permits for victims of trafficking in persons. This instruction states that where the Ministry of Labour and Social Welfare estimates that a foreign citizen is a victim of trafficking in need of protection and treatment, the competent organizational unit of the Ministry of the Interior of the Republic of Montenegro, the Department for the State Border and Border Administration, will grant temporary residence. Such temporary residence can be granted for a period of three months, six months or one year, depending on the case.

Temporary residence can be extended where requests are made prior to the expiry of the temporary residence permit, and the decision whether to grant such an extension will be treated in the same manner as for the initial permit.

www.vlada.cg.yu/eng/antitraf/vijesti.php?akcija=vijesti&id=10133

Netherlands

In the Netherlands, the B9 procedure has been introduced for 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 they decide 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 residence 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:

www.antislavery.org/homepage/resources/humantraffic/theNetherlands.pdf

United States

The United States Trafficking Victims Protection Act of 2000 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 the fear of deportation. Under the Act, victims can decide to apply for either a T or a U visa during the course of investigation.

The T visa

The T visa is designed both to prosecute traffickers successfully and to provide maximum protection for victims of trafficking. It is available for victims who self-petition to remain in the United States for up to four years, if they can show they:

1. Have been a victim of a severe form of trafficking;

2. Have complied with reasonable requests to assist in the investigation or prosecution of their case (or are not yet 18 years of age);

3. Are physically present in the United States on account of having been trafficked; and

4. Would suffer severe hardship if repatriated.

Those who meet these qualifications can receive benefits through Health and Human Services before their visa petition has been finalized.

The U visa

After considerable delay since the passage of the Victim Protection Act in 2000, the Department of Homeland Security passed regulations in September 2007 concerning the U visa, which offers temporary legal status to undocumented immigrants who are victims of

crime and are helpful in the investigation or prosecution of a crime. The U visa is valid for up to four years for victims of a range of serious crimes, including trafficking. It is available to immigrants who:

1. Are victims under federal, state or local criminal laws against prescribed crimes, including trafficking;

2. Have suffered severe physical mental abuse as a result of the crime committed against them;

3. Have been helpful, are being helpful or are likely to be helpful in the investigation or prosecution of criminal activity.

While victims who have been granted a U visa can receive a work permit, they are not eligible for publicly funded programs for which T visa recipients are eligible. Both T and U visa holders may eventually apply for lawful permanent residence status and citizenship if they qualify.

See: www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf on the T visa, http://legalmomentum.org and www.uscis.gov/portal/site/uscis on the U visa and www.theiacp.org/research/VAWPoliceResponse.html generally.

RETURN AND REINTEGRATION

Tool 7.3 Understanding the challenges for returnee victims of trafficking

Overview

This tool provides a brief overview of some of the challenges which victims face in returning to their country of origin.

Returning to their country of origin is often a difficult process for victims of trafficking, in which they face psychological, family-related, health, legal and financial problems and problems in reintegrating into their families and communities. Reintegration assistance, with a view to empowering victims in their State of origin, should be an integral part of voluntary return programmes. It can help address the root causes of trafficking and avoid potential retrafficking of victims after their return.

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. These challenges were determined in the context of the Greater Mekong subregion, but similar challenges will be faced by trafficked persons returning to other regions of the world.

- Trafficked persons 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 trafficked person 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 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 do not 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, considering 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 owing 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 each another—especially if the woman worked as a sex worker or is suspected to have done so.
- Some returnees come back with an illness. Sometimes the illness may be caused by the conditions in which they were working, by alcohol or drug abuse, or by 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, including 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 or his family. Some women/children who are ill may be afraid of being abandoned by their families.

- Returnees may be afraid of the 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 for 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 consulting:

  In the destination State, the person who wishes to return and any institution or organization that is helping or taking care of her or 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, available at: www.un.or.th/traffickingProject/trafficking_manual.pdf

Tool 7.4 Obligations of States

Overview

This tool explains the provisions of article 8 of the Trafficking in Persons Protocol on the repatriation of victims of trafficking in persons and discusses the issue of victims who are facing deportation from the country of destination.

Mandatory requirements prescribed by article 8 of the Trafficking in Persons Protocol include obligations for States:

- To facilitate and accept the return of victims who are their nationals or had the right of permanent residence in their territory at the time of entry into the receiving State, with due regard for their safety (art. 8.1)

- To verify, without reasonable delay whether trafficking victims are their nationals or had the right of permanent residence, when requested to do so by the receiving State, and issue the necessary travel documents for their re-entry (art. 8.3)

Article 8, paragraph 2 of the Protocol requires that any repatriation of victims must be with due regard for their safety. This requirement also applies to victims who have not served as witnesses in criminal proceedings and to countries of which the victims are nationals or permanent residents.

Article 8, paragraph 4 of the Protocol requires a State party to whom one of its national or permanent residents is to be repatriated to issue any necessary travel or identity documents on request. This is primarily an administrative obligation, but may require legislation to ensure that appropriate officials or agencies are able and obliged to issue such documents when the conditions set out in article 8 are met.

Article 8 of the Trafficking in Persons Protocol

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.

Promising practice

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 the 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 in 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 text of the Victims of Trafficking and Violence Prevention Act of 2000 is available at:

www.state.gov/documents/organization/10492.pdf

Tool 7.5 Human rights considerations with respect to the return and reintegration of victims

Overview

This tool provides guidelines developed by the United Nations High Commissioner for Human Rights relevant to the return and repatriation of victims of trafficking.

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights offer important guidance for anti-trafficking efforts.

Guideline 6

Protection and support for trafficked persons

The trafficking cycle cannot be broken without attention to the rights and needs of those who have been trafficked. Appropriate protection and support should be extended to all trafficked persons without discrimination.

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

1. Ensuring, in cooperation with non-governmental organizations, that safe and adequate shelter that meets the needs of trafficked persons is made available. The provision of such shelter should not be made contingent on the willingness of the victims to give evidence in criminal proceedings. Trafficked persons should not be held in immigration detention centres, other detention facilities or vagrant houses.
2. Ensuring, in partnership with non-governmental organizations, that trafficked persons are given access to primary health care and counselling. Trafficked persons should not be required to accept any such support and assistance and they should not be subject to mandatory testing for diseases, including HIV/AIDS.
3. Ensuring that trafficked persons are informed of their right of access to diplomatic and consular representatives from their State of nationality. Staff working in embassies and consulates should be provided with appropriate training in responding to requests for information and assistance from trafficked persons. These provisions would not apply to trafficked asylum-seekers.
4. Ensuring that legal proceedings in which trafficked persons are involved are not prejudicial to their rights, dignity or physical or psychological well-being.
5. Providing trafficked persons with legal and other assistance in relation to any criminal, civil or other actions against traffickers/exploiters. Victims should be provided with information in a language that they understand.
6. Ensuring that trafficked persons are effectively protected from harm, threats or intimidation by traffickers and associated persons. To this end, there should be no public disclosure of the identity of trafficking victims and their privacy should be respected and protected to the extent possible, while taking into account the right of any accused person to a fair trial. Trafficked persons should be given full warning, in advance, of the difficulties inherent in protecting identities and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies in this regard.
7. Ensuring the safe and, where possible, voluntary return of trafficked persons and exploring the option of residency in the country of destination or third-country resettlement in specific circumstances (e.g. to prevent reprisals or in cases where retrafficking is considered likely).
8. In partnership with non-governmental organizations, ensuring that trafficked persons who do return to their country of origin are provided with the assistance and support necessary to ensure their well-being, facilitate their social integration and prevent retrafficking. Measures should be taken to ensure the provision of appropriate physical and psychological health care, housing and educational and employment services for returned trafficking victims.

The guideline of key relevance to protecting child victims of trafficking is provided below.

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.

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.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Tool 7.6 Victims facing deportation

Overview

This tool addresses situations where victims are facing deportation before they have had a chance to establish that they are victims of trafficking.

Victims of human trafficking may be facing deportation before they have had a chance to establish that they are victims of trafficking. In many countries, apart from criminal proceedings against offenders, there are often no formal judicial 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 that States parties ensure that victims are able to present their views and concerns at appropriate stages of proceedings against an offender. This may necessitate the deferral of deportation 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" (see Tool 1.1 and Tool 3.2) 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 his or her 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, in accordance with article 8 of the Trafficking in Persons Protocol (see Tool 7.4), 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

Saving Clause

Article 14 of the Trafficking in Persons Protocol

When States are addressing issues concerning the status of victims, article 14 of the Trafficking in Persons Protocol must be borne in mind. That article states:

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Promising practice

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

Section 11 of UNMIK regulation No. 2001/4 of 12 January 2001 concerning trafficking in persons in Kosovo is entitled "No deportation of trafficking victims for certain convictions" and reads:

> A conviction for prostitution or a conviction for illegal entry, presence or work in Kosovo shall not be the basis for deportation if the person who is to be deported is a victim of trafficking.

The full regulation is available online at:
www.unmikonline.org/regulations/2001/reg04-01.html

Tool 7.7 Mechanisms for the safe return and reintegration of victims

Overview

This tool provides examples of mechanisms (such as bilateral agreements and collaboration with non-governmental organizations and other international organizations) which can facilitate the return and reintegration of victims.

Where victims of trafficking are not returned to their country with due regard for their safety, they can fall back into the hands of traffickers, or be revictimized through reprisals. 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. In relation to the return of victims to their country of origin, the question also arises as to who bears the cost of their safe return and reintegration.

The essential elements to address these issues include:

- Cooperative bilateral efforts between the destination State and the State of origin, and the provision to victims upon their return of protection from the danger of retaliation by their traffickers
- Cooperation with non-governmental organizations that can assist the victim while in the destination State and can continue to do so in the State of return

Effective support programmes in the State of return that complement the assistance provided in the destination State are also critical for the success of reintegration.

Article 8 of the Trafficking in Persons Protocol (see Tool 7.4) 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 in their territory at the time of entering the receiving State. If the person has no proper documentation, States of origin must also issue necessary travel or other documents to enable the person to travel and to re-enter their 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.

Anti-Slavery International recommendations regarding return and reintegration of victims of trafficking

Recommendation 40

The authorities, i.e. immigration and police services, should not remove trafficked persons to a country of origin where there is reasonable suspicion they may suffer further harm, through stigmatization, discrimination or risk of reprisals.

Recommendation 41

Immigration services should support and make use of existing voluntary repatriation programmes involving local organizations in countries of origin. For example, IOM coordinates such programmes, characterized by a holistic approach to return and recovery.

Recommendation 42

Immigration and police services in countries of destination should not reveal to authorities in countries of origin that a person has been trafficked, without their explicit consent. This is especially important where there are concerns regarding corruption of local officials or, for those trafficked into prostitution, because of stigmatization associated with prostitution.

Recommendation 43

Immigration and police services should make available to trafficked persons contact information and telephone numbers of non-governmental organizations, lawyers and social welfare agencies that can assist them in their country of origin. This should not only be in the country's capital, but also any relevant regional centres. They must ensure that this information is authentic and up to date (i.e. latest telephone numbers) by reviewing it periodically, by contacting organizations themselves and also through local non-governmental organization networks in the country of destination. Non-governmental organizations should assist the authorities in collecting such information and ensure that it is given to the authorities, and not simply made available through websites.

Recommendation 44

For trafficked persons who wish to go home, immigration services should ask if they wish to be met by a local non-governmental organization and, in accordance with their wishes, contact local non-governmental organizations in countries of origin to assist those who return home.

Recommendation 45

In returning trafficked persons who want to go home, immigration and police services should provide them with contact information for a law enforcement office in the country of origin that they can contact if a trafficker threatens them.

Source: Anti-Slavery International, *Human Trafficking, Human Rights: Redefining Victim Protection,* available at:

www.antislavery.org/homepage/resources/humantraffichumanrights.htm

The role of non-governmental organizations in destination States

Local non-governmental organizations have taken on the role of assisting and supporting victims of trafficking and facilitating their return. Extensive and well-developed non-governmental organization programmes, coordinated with Governments, are in place in many States.

To ensure respect for the spirit of the Trafficking in Persons Protocol and the safe return and rehabilitation of trafficked victims, programmes of assistance in destination States should be followed up with complementary intervention in the State of origin. In the destination State, victims may be more inclined to report the crime and participate in programmes of assistance if they understand that support and assistance will also be available when they return to their State of origin.

The support provided to victims in the States of destination allow them to begin to move towards recovery. It is critical to the success of the restorative objectives of this assistance that it should continue when the victims return home. Wherever possible, communication and agreements should be developed between the States of destination and origin, with monitoring, case management and feedback built in. The victims should be informed of the assistance that will be available when they return home and provided with information on how it may be accessed.

Promising practice

Government response

Bilateral 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 them to reintegrate 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 the return and repatriation of victims, the two countries agreed to facilitate and accept without undue or unreasonable delay the return of victims to their country of origin, having due regard for their safety. The country repatriating a victim of trafficking will have regard for the safety, human rights and well-being of such a victim and will allow the victim, subject to legislative provisions relating to the proceeds of crime, to return with their property and possessions.

Bilateral agreement between Greece and Albania

On 27 February 2006, the Governments of Greece and Albania signed a bilateral agreement aimed at protecting and assisting Albanian children trafficked into Greece and at preventing the trafficking of children in Albania.

International organization response

Pilot project to assist victims of trafficking at São Paulo International Airport, United Nations Office on Drugs and Crime, Brazil

UNODC designed an innovative pilot project to provide special assistance to potential victims of trafficking among migrants returning to Brazil, implementation of which began in December 2006. The initiative is the result of technical cooperation between the Ministry of Justice of Brazil and UNODC, and draws upon staff of the Brazilian Association for the Defence of Women, Children and Youth (ASBRAD), with initial funding provided by the Netherlands non-governmental organization Cordaid. Under the project, a secured formal presence has been established in a restricted area of the airport in order to meet arriving migrants who have been denied entry abroad or have been deported back to Brazil. The initial success of the project has been largely owing to the project team's sympathetic and individualized reception of returnees, focusing on offering assistance to help them reintegrate. The assistance provided ranges from assistance with filling out immigration forms, changing money and helping with onward flights, to offering information about medical, housing and other essential services. Another reason for the success of the project is the integration of the project team with airport officials, airline personnel, federal police and other airport services. This enables streamlined re-entry of often traumatized victims and also sensitizes the airport authorities and other personnel to human trafficking issues and the rights of victims.

The pilot project has already received commendation for its innovative approach to victim assistance. Through the project, critical data regarding trafficking flows have been gathered, which will contribute to the work of profiling traffickers and trafficked persons for use in developing strategies to combat the crime.

More information about the work of UNODC in Brazil is available at:
www.unodc.org/brazil/index.html

International Organization for Migration assistance programmes

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 to assist victims in the pre-departure, departure, reception and integration stages of the rehabilitation process.

In countries of origin and destination, IOM offers immediate protection in reception centres in collaboration with local non-governmental organizations. Health-care facilities at rehabilitation centres provide psychological support, as well as general and specialized health services.

In accordance with local laws, IOM provides voluntary and dignified return assistance to victims of trafficking. Such assistance includes counselling, education and vocational training for income-generating activities in countries of origin in order to reduce the risk of revictimization. See also Tool 7.8.

More information about IOM assistance programmes can be obtained at:

www.iom.int

Non-governmental organization response

La Strada network

The Dutch Foundation against Trafficking, known since 2007 as the Coordination Centre Human Trafficking (COMENSHA), is one of nine member organizations of La Strada, an international network that aims to prevent trafficking in human beings, with a particular focus on women in Central and Eastern Europe. COMENSHA functions as a national reporting and registration point for trafficked persons. Once a client returns to his or her country of origin, COMENSHA coordinates return and reintegration steps in that country through La Strada or other local organizations to ensure the provision of shelter for returned victims and of support towards their reintegration. COMENSHA also supports clients who do not want to return to their country of origin.

More information about the La Strada network is available at:

www.lastradainternational.org/

Tool 7.8 The return and reintegration process

Overview

This tool explains the stages in the process of returning victims of trafficking to their country of origin and reintegrating them there.

International Organization for Migration guidance on referral and reintegration

(The IOM Handbook on Direct Assistance for Victims of Trafficking)

Chapter 3 of *The IOM Handbook on Direct Assistance for Victims of Trafficking*, published in 2007, offers invaluable guidance on victim referral and subsequent reintegration. The publication covers a wide range of support measures leading up to and provided throughout the reintegration process, emphasizing that assistance must be offered on a case-by-case basis in accordance with individual needs and fundamental human rights. An overview of the stages of return and reintegration are summarized here.

Stages of the return process: referring State

Victims should be returned voluntarily, and ideally with their informed written consent. Victims may be requested to sign a voluntary return declaration. The length of time needed to organize an assisted voluntary return depends on the circumstances in each situation; time is required to secure documentation and mentally and physically stabilize the victim. Priority should always be given to the victims' health and security.

Medical assistance

Pre-departure medical assistance is usually limited to basic or emergency health care and basic medical assistance. Special attention should be given to medical conditions which are highly infectious and/or those which could impede the victim's safe travel. Effort should be made to provide treatment which cannot be provided in the victim's country of origin.

Temporary accommodation

Safe temporary accommodation may be necessary while preparations are taking place. Such accommodation can be obtained through Government structures or international or local non-governmental organizations.

Temporary documentation and visas

Where traffickers have confiscated victim's documentation, it will be necessary to arrange replacement travel documents through relevant embassies or consulates. Contact should not take place where asylum procedures are pending, or where the victim has expressed a wish to apply for asylum based on a fear of returning home. In the interests of the victim's security and identity, only the minimum amount of information that is necessary to obtain documentation should be provided to embassy or consular personnel.

Security assessment

In some cases, the victim will be shunned, hurt or killed if he or she returns to his or her family or community. The person may also face legal ramifications upon return to the country of origin. Before victims are returned, an assessment of the risks which they face must be undertaken, taking into consideration issues such as the initial causes of trafficking, the socio-economic situation of the family, the attitudes of the family and community, whether the person is threatened with criminal or civil sanctions upon return, the state of infrastructure in the country of origin, whether there is a functioning witness protection programme, whether there are medical, psychological and legal services available, whether there is the possibility of training and educational programmes to minimize the risk of the person's revictimization.

Reintegration plans

An extensive reintegration plan should primarily be left to the receiving country into which the person is being reintegrated. Such a plan should give the victim a clear understanding of what to expect and should not create unrealistic expectations.

Travel grant

Sometimes a grant of food, water or other relevant supplies is necessary. Often it is better to provide the person with the actual service (such as prepared meals and prearranged accommodation) than cash, which can be inappropriately spent or lost.

Preparation of the victim

Returning victims should be made aware of the return assistance that will be provided. They should also be made aware of the duration of time the return process is estimated to take, and anything which may delay or expedite the process. Information should also be provided to the victim about:

- Available rights, options, rules of return and their justification
- The telephone number of the receiving organization as well as the name of the individual to contact
- Payment of a travel grant (if relevant)
- The prohibition on consuming alcohol on the journey (particularly if on medication)
- Assistance realistically available in the receiving country

It is important to explain to the victim that the final reintegration plan will be drawn up by the receiving country after a reintegration assessment.

Before the victim's departure, the following conditions should be met:

- That the victim has indicated understanding and consent regarding all departure procedures
- That in cooperation with the victim, a safe and appropriate place to stay on arrival, at least on a temporary basis, has been determined
- That all necessary legal, administrative, identity and travel documents of the victim have been secured prior to departure

- That all relevant service referrals and suggestions for follow-up care have been explained and provided to the victim
- That when referring a victim to a service delivery organization in the receiving country all necessary documentation and available security information have been forwarded to the receiving organization
- That when referring a victim to a partner non-governmental organization or other service provider in a transit country or the receiving country, all travel and service arrangements have been secured and confirmed in advance and recommendations have been sent to, and received by, the partner non-governmental organization or other service provider
- That the victim has been given a copy of all relevant personal documentation, including documentation of medical care, case progress and other data, as necessary
- That the victim has been fully informed of all the steps regarding departure, transportation and follow-up assistance

Communication procedures between the referring and the receiving State

In coordinating the return process of victims, communication between referring and receiving service delivery organizations should be prompt and secure. The following notifications are recommended by IOM as minimum standards.

- Notification of a request for assistance by the referring organization
- Confirmation of a request for assistance by the receiving organization
- Reintegration assistance request by the referring organization
- Reintegration assistance confirmation by the receiving organization
- Post-departure confirmation by the referring organization
- Arrival confirmation by the receiving organization

International travel procedures

Where possible, the travel schedule should aim to get the victim back to the receiving country as early as possible in the day and only on working days. The preferred means of travel is usually air travel, as it is more predictable than other means of transport (such as train or bus) and is therefore to be preferred for the safety of the victim. If air travel is not possible, efforts should be made to identify alternative routing with as few transit points as possible.

Arrival assistance

IOM recommends that victims be encouraged to accept arrival assistance as part of their return assistance package. There have been incidents where victims were met by traffickers upon their return and quickly retrafficked.

Case follow-up

Receiving organizations should make efforts to communicate to the referring organization regarding the status and well-being of the returned victim.

Stages of the reintegration process: receiving State

Reintegration processes differ according to circumstances, but the overall aim of the reintegration process should be to provide for the victim's safe, dignified and sustainable reinsertion into society and a normal life. Accordingly, the reintegration assistance rendered can include shelter, medical and psychological care, counselling, grants, school reinsertion and training. Some assistance will be provided by the receiving organization and other services are likely to be provided by non-governmental organizations and Government partners. Reintegration services should only be provided with the victim's consent.

Reintegration assessment and plan

Assessments of both the individual victim and the situation to which he or she has returned should be carried out. A realistic reintegration plan should be formulated by the receiving country on the basis of these assessments, addressing such components as:

- Family mediation/reunification
- Medical/health concerns
- Financial issues (reinstallation grants, family or dependent support grants)
- Legal considerations
- Education/vocational training/apprenticeships
- Income-generating activities
- Security

Initial support by the receiving service delivery organization

Initial support may include arrival assistance, an immediate and comprehensive medical/psychological examination and treatment, short-term housing and help with various other social, legal and economic needs of the victim. Steps should be taken to avoid situations of dependency; the aim should be to help the victim become self-reliant.

Long-term support

Long-term reintegration support may be provided through (preferably formalized) collaboration between the receiving service organization, local or international non-governmental organizations and Government partners. Such reintegration activities may include:

- Medical/health-care services
- Counselling
- Financial assistance
- Legal assistance
- Reinsertion into the educational system
- Vocational training
- Micro-enterprise and income-generating activities
- Job placement, wage subsidies, apprenticeship programmes
- Housing and accommodation

Formalized memorandums of understanding between the Government and other service providers which clearly outline agreed responsibilities and services to be provided are useful.

Source: The IOM Handbook on Direct Assistance for Victims of Trafficking, available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Tool 7.9 Protecting refugee victims of trafficking

Overview

This tool flags the issue of protecting and assisting trafficking victims as refugees and refers to various guidelines of the Office of the United Nations High Commissioner for Refugees (UNHCR) which may assist in the process of affording such protection.

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 (United Nations, *Treaty Series*, vol. 189, No. 2545). The Convention defines a refugee as any person who has

> 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.

A trafficking victim who has a well-founded fear of persecution in his or her country of origin, based on one or more of these five grounds stipulated in the refugee definition, would therefore qualify for refugee status.

The 1951 Convention relating to the Status of Refugees is available at:

www.unhchr.ch/html/menu3/b/o_c_ref.htm

The principle of non-refoulement

The principle of non-refoulement is often referred to as the cornerstone of international protection. This principle, as enshrined in the 1951 Convention relating to the Status of Refugees, has acquired the status of customary international law, meaning that it has become binding on all States, regardless of whether or not they are signatories to the 1951 Convention. All countries must respect the principle of non-refoulement, which includes:

1. Not returning asylum seekers or refugees to a place where their life or liberty would be at risk;
2. Not preventing asylum seekers or refugees—even if they are being smuggled or trafficked—from seeking safety in a country, if there is a chance of them being returned to a country where their life or liberty would be at risk;
3. Not denying access to their territory to people fleeing persecution who have arrived at their border (access to asylum).

The principle of non-refoulement could therefore apply if a trafficking victim fears persecution or other serious harm in his or her country of origin, for example in the form of retrafficking, reprisals from traffickers or criminal networks, ostracism, social exclusion or discrimination to an extent that would amount to persecution, harassment, threats or intimidation. It is not uncommon for victims of trafficking to fear intimidation or discrimination by the authorities in their countries of origin.

For more information about the principle of non-refoulement, see *The IOM Handbook on Direct Assistance for Victims of Trafficking*, available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Recommended resources

The relationship between UNHCR, refugee issues and trafficking in persons is twofold:

- UNHCR has a responsibility to ensure that refugees, asylum seekers, internally displaced persons, stateless persons and other persons of concern do not fall victim to trafficking.
- UNHCR has a responsibility to ensure that individuals who have been trafficked and who fear being subjected to persecution upon their return to their country of origin, or individuals who fear being trafficked, whose claim to international protection falls within the definition of a refugee, are recognized as such and afforded international protection.

The following UNHCR guidelines are of benefit in offering international protection to victims of trafficking or those who are vulnerable to being trafficked.

Guidelines on international protection

The application of article 1.A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked (HCR/GIP/06/07)

In April 2006, UNHCR issued guidelines on international protection focusing on persons who are victims of trafficking. These guidelines provide guidance for Governments, legal practitioners, decision-makers, the judiciary and UNHCR staff in determining the refugee status of persons who have been trafficked. The guidelines offer particular clarity on the key point that, in order to be considered a refugee under the Convention, the individual trafficking victim concerned must have a "well-founded fear of persecution" linked to one or more of the Convention grounds. Whether their fear is considered to be well-founded depends on the individual circumstances of their case. The guidelines provide extensive interpretive guidance for determining whether this requirement has been met in the individual case of an individual victim of trafficking.

These guidelines are available at:
www.unhcr.org/doclist/publ/3d4a53ad4.html

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. *Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, published by UNHCR in May 2003, provides a framework for developing prevention and response strategies. These guidelines are adaptable to different contexts and settings.

This publication is available at:
www.rhrc.org/pdf/gl_sgbv03_00.pdf

Guidelines on the protection of refugee women

The "Guidelines on the protection of refugee women" were prepared by UNHCR in 1991 to help the staff of UNHCR and its implementing partners to identify the specific protection issues, problems and risks facing refugee women. The guidelines address traditional protection concerns, such as the determination of refugee status and the provision of physical security, and 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. Lastly, the guidelines outline steps that can be taken to ameliorate and report upon protection problems that do arise.

These guidelines are available at:

www.unhcr.org/publ/PUBL/3d4f915e4.pdf

Tool 7.10 Return and reintegration of children

Overview

This tool discusses the special considerations involved in repatriating child victims of trafficking.

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 a 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.

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 treat the victim as a child in accordance with the Convention on the Rights of the Child, until his or her age is verified.

Convention on the Rights of the Child

General Comment No. 6 (2005) of the Committee on the Rights of the Child is concerned with the treatment of unaccompanied and separated children outside their country of origin. This General Comment sets out the clear primacy of the best interests of the child; paragraph 84 states the following:

Return to the country of origin is not an option if it would lead to a "reasonable risk" that such return would result in the violation of fundamental human rights of the child, and in particular if the principle of non-refoulement applies. Return to the country of origin shall in principle only be arranged if such return is in the best interests of the child. Such a determination shall inter alia take into account the:

- Safety, security and other conditions, including socio-economic conditions, awaiting the child upon return, including through home study, where appropriate, conducted by social network organizations;
- Availability of care arrangements for that particular child;
- Views of the child expressed in exercise of his or her right to do so under article 12 and those of the caretakers;
- The child's level of integration in the host country and the duration of absence from the home country;
- The child's right "to preserve his or her identity, including nationality, name and family relations" (art. 8);
- The "desirability of continuity in a child's upbringing" and the child's ethnic, religious, cultural and linguistic background (art. 20);
- In the absence of the availability of care provided by parents or members of the extended family, return to the country of origin should, in principle, not take place without advance secure and concrete arrangements of care and custodial responsibilities upon return to the country of origin.

General Comment No. 6 (2005) of the Committee on the Rights of the Child is available at:

http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf

For the text of the Convention on the Rights of the Child see:

www.unicef.org/crc

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan to Combat Trafficking in Human Beings (adopted by the OSCE Permanent Council in its decision No. 557/Rev.1) recommends that a decision to repatriate a child victim of trafficking in human beings should only be made after all of the circumstances of the specific case have been taken into account and if there is a family or special institution in the country of origin to ensure the child's safety, protection, rehabilitation and reintegration.

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 destination 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.

The OSCE Action Plan is available at:
www.osce.org/documents/pc/2005/07/15594_en.pdf

Guidelines for the protection of unaccompanied minors of the Office of the United Nations High Commissioner for Refugees

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, to be applied in conjunction with those set out in 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;

(c) To stimulate discussion 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:

www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3d4f91cf4

Guidelines of the International Programme on the Elimination of Child Labour of the International Labour Organization

In the framework of its Programme on the Elimination of Child Labour, the ILO developed 12 principles which should guide all actions in the recovery and integration of trafficked children:

1. Each child is an individual and the recovery and integration process should be an individual one promoting the best interests of each child.

2. While respecting differences between individual children, each child should not suffer discrimination on the basis of age, sex, nationality, race, language, religion or ethnic or social origin, birth or other status.

3. No trafficked child should be held in detention at any time.

4. Each child's right to privacy and confidentiality should be respected and protected at all times.

5. Each child should be protected from all forms of neglect and physical and psychological abuse (including verbal abuse) at all times.

6. The views of each child should be considered and actively sought.

7. Each child should be made aware of her or his rights as well as responsibilities.

8. Each child should be treated with respect, affection and dignity. Self-reliance and resilience of the child should be promoted in line with her or his age and maturity.

9. Family and community-type arrangements for a child should be favoured over institutional settings.

10. Each child should not be separated from her or his family unless there is a risk of being neglected, abused or retrafficked.

11. Care providers should form networks to ensure that each child has appropriate physical and emotional care in a setting that encourages her or his development.

12. Care providers should be trained and experienced in caring for children and have the relevant professional qualifications according to their job description.

These 12 principles are contained in the ILO publication *Combating Child Trafficking; Child-friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children,* available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16.htm

Promising practice

Bangladesh National Women's Lawyers' Association

The Bangladesh National Women's Lawyers' Association offers legal support to women and children victims of trafficking. The Association has 28 legal clinics in different districts and 13 focal sites in 13 trafficking-prone areas. In addition, it has shelters in Dhaka where survivors of trafficking (as well as violence and discrimination) are helped to become reintegrated into society by means of job placements or to be repatriated to their country of origin. The Association focuses on the rehabilitation of victims of trafficking and is campaigning particularly to strengthen action against trafficking of children to Gulf States for use as camel jockeys. It has successfully repatriated several victims of this crime from India, Pakistan and the United Arab Emirates in collaboration with the Ministry of Home Affairs and the Ministry of Foreign Affairs. After victims are repatriated, the Association provides treatment and counselling and other services to returnees and takes legal action against traffickers.

More information about the work of the Bangladesh National Women's Lawyers' Association can be found at:

www.bnwlahostel.org

The National Center for Refugee and Immigrant Children in the United States

The National Center for Refugee and Immigrant Children was established in the United States in 2005 to provide pro bono legal and social 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 of the children have experienced human trafficking, persecution or domestic violence. Without an attorney's assistance, they are often denied legal protection or the right to stay in the country.

Source:

www.refugees.org/article.aspx?id=1260&subm=75&area=Participate

Recommended resources

Child-friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children

(International Labour Organization, 2006)

The ILO *Child-friendly Standards and Guidelines for the Recovery and Reintegration of Trafficked Children* refer to steps, procedures and services needed to protect and reintegrate child victims of trafficking in persons effectively. These standards and guidelines build on international standards and tailor them specifically for use by all practitioners, decision-makers and policymakers who are directly or indirectly involved in the recovery and reintegration of trafficked children in the Asian context.

This ILO publication is available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16a.htm

Guidelines on the Protection of Child Victims of Trafficking

(United Nations Children's Fund)

These UNICEF guidelines, published in September 2006, set standards for good practice with respect to the protection of and assistance to trafficked children. These guidelines,

intended for use by Governments and State actors, international organizations, non-governmental organizations and other service providers, are the culmination of global efforts to establish standards and guidelines. Chapter 6 of this publication explicitly addresses the issue of regularization of the child victim's status.

The guidelines can be downloaded at:
www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe

(United Nations Children's Fund)

The UNICEF Regional Office for Central and Eastern Europe and the Commonwealth of Independent States published a *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*. The guide has been designed for practitioners working to protect child victims of trafficking specifically within the European region. It provides checklists of what to do when dealing with child victims of trafficking and recommendations for interventions that respect and account for the special rights and needs of child victims of trafficking.

The reference guide is available at:
www.unicef.org/ceecis/protection_4440.html

Policy paper on return of foreign unaccompanied minors

(Terre des hommes)

Terre des hommes made available a pre-publication release of its policy paper concerning the return of foreign unaccompanied minors, in March 2007. This policy paper discusses the principle of "durable solution" and steps to be taken in the process of repatriating children to their country of origin, in accordance with the Convention on the Rights of the Child.

The policy paper is available at:
www.tdh.ch/website/tdhch.nsf/pages/trafficking_documentationE

Anti-Trafficking Training for Frontline Law Enforcement Officers and Listening to Victims: Experiences of Identification, Return and Assistance in South-Eastern Europe

(International Centre for Migration Policy Development)

In 2007, ICMPD published *Anti-Trafficking Training for Frontline Law Enforcement Officers*. The training was developed to raise awareness of the crime of human trafficking as a serious crime and violation of human rights, and to enhance the capacity of non-specialized police and border personnel to identify and properly treat victims of crime. The training material consists of a *Training Guide* (containing a curriculum of five units) and a *Background Reader* (comprising topics relating to trafficking relevant to police, border and customs officials).

Additionally, ICMPD has published a study entitled *Listening to Victims: Experiences of Identification, Return and Assistance in South-Eastern Europe*.

Both publications are available free of charge to relevant actors in the field of anti-trafficking. For more information about how to acquire these publications, visit:

www.anti-trafficking.net

chapter 8

VICTIM ASSISTANCE

Protecting and assisting victims is a paramount obligation of States which must be considered in all dealings with actual and potential victims of trafficking.

Tool 8.1 discusses obligations of States in offering assistance to victims and Tool 8.2 focuses on special considerations relating to child victims. Tool 8.3 explores the human rights dimensions of protection and assistance and offers principles, guidelines and resources to ensure that human rights are respected at all times. Tools 8.4 to 8.10 address specific types of assistance which should be made available to victims of trafficking, including language and translation assistance (Tool 8.4), medical and psychological assistance (Tool 8.5 and Tool 8.6) and material assistance (Tool 8.7). Safe refuge for victims of trafficking is essential both for their protection and for the effective delivery of other forms of assistance; different types of shelter and various considerations for the establishment of shelters are discussed in Tool 8.8. To break the cycle of vulnerability and to facilitate the reintegration of victims, victims must be empowered through effective rehabilitation, skills training and education, as discussed in Tool 8.9. No one form of assistance is sufficient to assist victims fully; an effective approach to victim assistance is one that is long-term and multi-faceted, offering a range of services to meet the individual needs of victims. Various promising examples of holistic approaches to victim assistance are offered in Tool 8.10.

The complicated relationship between HIV/AIDS and trafficking in persons must be borne in mind at all stages of assisting actual and potential victims of trafficking. Tools 8.11 to 8.14 aim to provide anti-trafficking actors at every stage and every level with pertinent and potentially life-saving information with respect to HIV/AIDS. Tool 8.15 offers an HIV referral model for developed countries.

Lastly, it must be borne in mind that victims of trafficking are victims of crime and, as such, they have a right to justice. Access to information and legal representation necessary to afford them access to justice are discussed in Tool 8.16 and the forms that such justice can take are considered in Tool 8.17.

PRINCIPLES OF VICTIM ASSISTANCE

Tool 8.1 Obligations of States
Tool 8.2 Obligations of States to child victims
Tool 8.3 Protection, assistance and human rights

TYPES OF VICTIM ASSISTANCE

Tool 8.4 Language and translation assistance
Tool 8.5 Medical assistance
Tool 8.6 Psychological assistance
Tool 8.7 Material assistance

Tool 8.8 Shelter programmes
Tool 8.9 Rehabilitation, skills training and education
Tool 8.10 Promising examples of integrated services

HIV/AIDS AND TRAFFICKING IN PERSONS

Tool 8.11 Overview of HIV/AIDS
Tool 8.12 Responses to the vulnerability to HIV/AIDS of victims of trafficking in persons
Tool 8.13 HIV guidelines for law enforcers, prosecutors and judges
Tool 8.14 Testing and counselling for HIV/AIDS among people vulnerable to trafficking in persons
Tool 8.15 HIV referral model for people vulnerable to trafficking in persons

JUSTICE FOR VICTIMS

Tool 8.16 Access to information and legal representation
Tool 8.17 Restitution and compensation for victims

PRINCIPLES OF VICTIM ASSISTANCE

Tool 8.1 Obligation of States

Overview

This tool describes, in general terms, assistance services States are required to provide to victims.

For more information about victim protection, see Tool 5.16.

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.

The most critical factor in assistance and support programmes is that they should be both comprehensive and integrated. Assistance with 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. "One-stop" access to all the services required is still the best service delivery option for victims.

Article 6, paragraph 3 in particular contains a 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 other practical reasons why this should be done. One is that providing support, shelter and protection to victims increases the likelihood that they will be willing to cooperate with and assist investigators and prosecutors (see Tool 5.16). However, such support and protection should not be made conditional upon the victim's participation in legal proceedings.

Article 6 of the Trafficking in Persons Protocol

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.

Article 25 of the Organized Crime Convention

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.

Medical assistance

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 or 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 that 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 identifying 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 take place.

Psychological assistance

The trafficking experience may create a systematic disruption of basic and core attachments to family, friends and religious and cultural systems; the destruction of central values relating to 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 victims of trafficking focus on the goals of recovery and re-establishment of the person's life, primarily in the State of origin.

Legal assistance

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, and 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 the victims' cultural and linguistic groups allow the victims to gain a better understanding of the bureaucratic processes they have to go through. In many instances, it may be important to provide the services of a translator of the same sex as the victim.

Rehabilitation, skills 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 cannot be overemphasized. Despite the prospect of continued abuse, victims remain in an 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. A range of shelter arrangements should be available in both the State of destination and the State of origin. Another critical aspect of safe shelter programmes for victims of human trafficking is that other assistance programmes should accompany them.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

(United Nations)

The 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. Principles 14 to 17

set out the victims' rights to medical, social and psychological assistance, health and social services and other relevant assistance.

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

The full text of the Declaration is available at:
www.unhchr.ch/html/menu3/b/h_comp49.htm

Recommended resources

Handbook on Justice for Victims of Crime and Abuse of Power

UNODC developed the *Handbook on Justice for Victims of Crime and Abuse of Power* 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 material on implementing victim assistance programmes.

The handbook can be consulted at:
www.unodc.org/pdf/crime/publications/standards_9857854.pdf

The IOM Handbook on Direct Assistance for Victims of Trafficking

The IOM Handbook on Direct Assistance for Victims of Trafficking, published in 2007, is an expansive resource for those who offer assistance to victims.

The IOM Handbook is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

In addition to the *Handbook on Justice for Victims of Crime and Abuse of Power*, UNODC published a guide for policymakers in implementing the Declaration of Basic Principles of Justice for Victims of Crime.

The Guide for Policymakers is available at:
www.unodc.org/pdf/crime/publications/standards_policy_makers.pdf

Commonwealth Guidelines for the Treatment of Victims of Crime

The Commonwealth Guidelines build on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in the context of Commonwealth States.

The Commonwealth Guidelines are available at:
www.thecommonwealth.org/Internal/156283/publications/

Tool 8.2 Obligations of States to child victims

Overview

This tool discusses State obligations to protect and assist child victims, and provides examples of measures to ensure their safety, taking into account their special needs and rights.

Child victims of trafficking may fall under the protection of various local or national child protection laws and regimes, whether or not they 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 such agencies fully and properly play their role as part of a national strategy to combat trafficking in persons.

Urgent action must sometimes be taken to secure the safety of child victims. Any action to ensure the safety of children must be respectful of their rights.

Article 6, paragraph 4 of the Trafficking in Persons Protocol

Article 6, paragraph 4 of the Trafficking in Persons Protocol provides that

> 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.

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, subject to its legal system, to treat the victim as a child in accordance with the definition of a child contained in the Convention on the Rights of the Child until his or her age is verified. States may also wish to consider:

- Appointing 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
- 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. See Tool 5.19 for more on special protection measures for children during legal proceedings
- Providing appropriate shelters for child victims to avoid risk of revictimization. Children should be housed in safe, suitable accommodation, with due account taken of their age and special needs
- Establishing special recruitment practices and training programmes to ensure that individuals responsible for the care and protection of child victims understand their needs, are gender-sensitive and possess the necessary skills to assist children and ensure that their rights are safeguarded.

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan to Prevent Trafficking in Human Beings includes a section recommending the following action at the national level for 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.

The full text of the OSCE Action Plan to Combat Trafficking in Human Beings is available at:

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

Promising practice

Manual for civil servants dealing with victims of trafficking in persons

In 2006, a new penal system began to be implemented in Colombia. This created new challenges for the Colombian criminal justice system regarding victims, especially child victims. In response to these challenges, UNODC carried out an assessment of the situation of victims and produced recommendations and guidelines for handling and protecting child victims of sexual crimes and exploitation under the new accusatory penal system.

The assessment focused on the protection of child victims of crimes relating to trafficking and other forms of exploitation. The aim was to facilitate the detection of legal and administrative gaps and weaknesses, particularly those affecting child victims of sexual crimes and exploitation, by developing a working tool for civil servants, as well as information and training on the protection of child victims. On the basis of the analysis and

recommendations which emerged from this activity, UNODC, with the support of the Colombian Family Welfare Institute, issued a handbook on trafficking in persons in June 2007 which emphasizes the rights of victims under the new penal system.

More information about the work of UNODC in Colombia is available at:

www.unodc.org/colombia/index.html

Recommended resources

For more information on protecting the rights of children during legal proceedings, see Tool 5.19. For more information on interviewing children, see Tool 6.12.

Guidelines on the Protection of Child Victims of Trafficking (United Nations Children's Fund)

These good practice guidelines on protecting and assisting child victims of trafficking, published in September 2006, are based on international human rights instruments and address the protection of trafficked children from their identification through to their recovery and reintegration. These guidelines are intended to inform policy development and the protection and assistance practice of Governments and State actors, international organizations, non-governmental organizations and other service providers.

The guidelines are available at:

www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

Guidelines on justice for child victims and witnesses of crime

The International Bureau for Children's Rights published in 2005 *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:

www.ibcr.org/

Guidelines for Medico-legal Care for Victims of Sexual Violence

(World Health Organization)

Chapter 7 of these WHO guidelines provides some useful information concerning medical assistance for child victims of human trafficking for sexual purposes.

The WHO guidelines are available at:

www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/

Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe

(United Nations Children's Fund)

This UNICEF reference guide contains checklists and guidelines for immigration officers, law enforcement and justice officials and other professionals working with child victims of trafficking in the European context.

The guide is available at:

www.unicef.org/ceecis/protection_4440.html

Tool 8.3 Protection, assistance and human rights

Overview

This tool discusses the human rights considerations which must be borne in mind in protecting and assisting victims of trafficking.

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights offer important guidance for anti-trafficking efforts.

The guideline of key relevance to victim protection and assistance is provided below.

Guideline 6

Protection and support for trafficked persons

The trafficking cycle cannot be broken without attention to the rights and needs of those who have been trafficked. Appropriate protection and support should be extended to all trafficked persons without discrimination.

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

1. Ensuring, in cooperation with non-governmental organizations, that safe and adequate shelter that meets the needs of trafficked persons is made available. The provision of such shelter should not be made contingent on the willingness of the victims to give evidence in criminal proceedings. Trafficked persons should not be held in immigration detention centres, other detention facilities or vagrant houses.

2. Ensuring, in partnership with non-governmental organizations, that trafficked persons are given access to primary health care and counselling. Trafficked persons should not be required to accept any such support and assistance and they should not be subject to mandatory testing for diseases, including HIV/AIDS.

3. Ensuring that trafficked persons are informed of their right of access to diplomatic and consular representatives from their State of nationality. Staff working in embassies and consulates should be provided with appropriate training in responding to requests for information and assistance from trafficked persons. These provisions would not apply to trafficked asylum-seekers.

4. Ensuring that legal proceedings in which trafficked persons are involved are not prejudicial to their rights, dignity or physical or psychological well-being.

5. Providing trafficked persons with legal and other assistance in relation to any criminal, civil or other actions against traffickers/exploiters. Victims should be provided with information in a language that they understand.

6. Ensuring that trafficked persons are effectively protected from harm, threats or intimidation by traffickers and associated persons. To this end, there should be no public disclosure of the identity of trafficking victims and their privacy should be respected and protected to the extent possible, while taking into account the right of any accused person to a fair trial. Trafficked persons should be given full warning, in advance, of the difficulties inherent in protecting identities and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies in this regard.

7. Ensuring the safe and, where possible, voluntary return of trafficked persons and exploring the option of residency in the country of destination or third-country resettlement in specific circumstances (e.g. to prevent reprisals or in cases where retrafficking is considered likely).

8. In partnership with non-governmental organizations, ensuring that trafficked persons who do return to their country of origin are provided with the assistance and

support necessary to ensure their well-being, facilitate their social integration and prevent retrafficking. Measures should be taken to ensure the provision of appropriate physical and psychological health care, housing and educational and employment services for returned trafficking victims.

The guideline of key relevance to protecting the human rights of child victims of trafficking is provided below. (See also Tool 8.2.)

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.

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.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Guidelines on the Protection of Child Victims of Trafficking

(United Nations Children's Fund)

At all stages of the process of assisting child victims of trafficking, from identification through to reintegration, the following general principles must be taken into account by all actors involved with the child:

Rights of the child

- Human rights standards, in particular the principles of protection and respect for children's rights as set out in the Convention on the Rights of the Child, must guide actions to assist child victims.
- The rights stipulated in the Convention are available to all children, regardless of their nationality, immigration status or statelessness.
- The involvement of child victims in criminal activities does not undermine their status as both a child and a victim, or their related rights to special protection.
- States are required both to refrain from infringing on children's rights and to take positive measures to ensure their enjoyment of these rights without discrimination.

Best interests of the child

- In all actions concerning child victims, the best interests of the child shall be a primary consideration.

Right to non-discrimination

- Child victims have the right to protection, whether they are non-nationals, nationals or residents of the country in which they find themselves.
- They must be considered as children first and foremost.

- Every child shall have, without discrimination of any kind as to race, sex, language, religion, ethnic or social origin, birth or other status, including immigration status, the right to such measures of protection as are required by his or her status as a minor.

Respect for the views of the child

- A child victim capable of forming his or her views has the right to express those views freely in all matters affecting him or her. Respect for the views of the child will be maintained in relation to the legal process, interim care and protection, identification and implementation of a durable solution, particularly in decisions concerning the child's possible return to the family, country or region of origin.
- The view of the child victim shall be sought and given due weight in accordance with his or her age and maturity.
- The child shall be provided the opportunity to be heard in any judicial and administrative proceedings affecting him or her, either directly or through a representative or appropriate body in a manner consistent with the procedural rules of national law.

Right to information

- Child victims shall be provided with accessible information regarding their situation and their rights, including protection mechanisms, other available services and the processes of family reunification and/or repatriation.
- Information shall be provided in a language that the child is able to understand. Suitable interpreters shall be provided whenever a child is questioned or interviewed, or whenever he or she requests it.

Right to confidentiality

- All necessary measures shall be taken to protect the privacy and identity of child victims to ensure the safety and security of the victim and his or her family.

Right to be protected

- Child victims are entitled to special protection measures, both as victims and as children, in accordance with their specific rights and needs.
- The State shall protect and assist child victims and ensure their safety.

Definition of roles and steps

- States should take positive action to combat trafficking in children and to protect and assist trafficked children.

Coordination/cooperation

- International, multilateral and bilateral cooperation between countries is important.
- Complementarity and cooperation among all organizations and institutions concerned is critical for the care and protection of child victims.

- Cooperation between Government and non-governmental sectors should be based on clear delineation of responsibility and transparency, with clearly defined roles.
- All relevant ministries and Government bodies involved in the protection of child victims shall adopt policies and procedures which favour information-sharing and networking between agencies and individuals working with child victims.

Source: These general principles are contained in the UNICEF *Guidelines on the Protection of Child Victims of Trafficking* available at:

www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

Recommended resources

Human Rights in Practice: a Guide to Assist Trafficked Women and Children

This 2001 guide is the result of collaboration between a range of anti-trafficking activists in South-East Asia. It is intended to promote the provision of direct assistance to trafficked victims, within a human rights framework. The manual is available in Bahasa Indonesia, Burmese, Chinese, Khmer, Lao, Thai and Vietnamese.

This publication is available in Burmese at:

www.gaatw.net/index.php?option=com_content&task=blogcategory&id=9&Itemid=78

Human Rights Standards for the Treatment of Trafficked Persons

This collation of international human rights instruments of value in the protection of trafficked victims, compiled in 1999, is available in English, French, German, Russian, Spanish and Thai.

For more information about this publication, visit:

www.gaatw.net/index.php?option=com_content&task=blogcategory&id=9&Itemid=78

Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World

In September 2007, GAATW issued a report entitled *Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World*. The report explores the experience

of Australia, Bosnia and Herzegovina, Brazil, India, Nigeria, Thailand, the United Kingdom and the United States and analyses the impact of their respective anti-trafficking policies and practices on the people living, working and migrating within and across borders. The report is intended to contribute towards policies and practices in respect of anti-trafficking around the world and draws attention to the gaps that undermine and frustrate efforts to prevent migrating women, children and men from finding themselves in situations of exploitation and trafficking.

More information about the report is available at:

www.gaatw.net

TYPES OF VICTIM ASSISTANCE

Tool 8.4 Language and translation assistance

Overview

This tool describes the language and translation assistance which States are required to provide to victims. Such assistance is necessary for the effective provision of other forms of assistance.

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.

In providing language and translation assistance,

Support services should:

- Deliver language and translation assistance in a culturally responsible and sensitive manner.
- Deliver assistance that is ethnographically specific, language specific and culturally responsive.
- Where possible, use service providers chosen by the victims (given a choice, victims often choose a generalist service provider who speaks their own language over a specialist service provider who cannot communicate with them as easily).

- In many instances, ensure that the interpreter is of the same gender as the victim.
- Provide all information materials relevant to services being accessed by victims, in their own language. Relevant cultural and linguistic communities should be consulted in the development of such material so that translations are tailored to users.
- Be careful not to overgeneralize characteristics of ethnic communities so as not to create negative stereotypes. Service providers should identify values of an ethnic community to which a victim may belong without ascribing cultural universality to these values or assuming that the victim necessarily subscribes to them.

Health-care providers should:

- Ensure that an interpreter acceptable to the victim is present during medical examinations, screening and treatment.

Police and legal services should:

- Provide liaison staff of the same culture and language as the victims to help them understand the process in which they are becoming involved.

In providing language and translation assistance to child victims,

- Interpreters should have special training and understanding in children's developmental 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.

Tool 8.5 Medical assistance

Overview

This tool examines the kind of medical assistance typically required by victims of trafficking.

Do no harm! It is the ethical responsibility of every health practitioner to treat each individual trafficking victim and situation as though there is a significant potential for harm until there is evidence to the contrary.

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 exposed to dangerous diseases. They may have been forced to use narcotic or psychoactive drugs by traffickers as a means of controlling them. The victims may have themselves 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 is 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 may have had to endure unsafe and violent sexual practices that increased their risk of contracting HIV/AIDS and other sexually transmitted diseases (see Tool 8.11). 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 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:

www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/

Budapest Declaration on Public Health and Trafficking in Human Beings

The type of medical assistance provided to victims should depend on the needs of the individual victim. The Budapest Declaration on Public Health and Trafficking in Human Beings, adopted in March 2003, offers guidance on the provision of health care. Although this Declaration specifically addresses human trafficking in Central, Eastern and South-East Europe, the recommendations provided therein are of value to other regions in their provision of assistance to victims of trafficking. According to the Declaration:

- Trafficked persons should be given access to comprehensive, sustained, gender, age and culturally appropriate health care which focuses on achieving overall physical, mental and social well-being.

- Health care should be provided by trained professionals in a secure and caring environment, in conformance with professional codes of ethics, and is subject to the principle that the victim should be fully informed of the nature and care being offered, give their informed consent and be provided with full confidentiality.
- Minimum standards should be established for the health care that is offered to trafficked victims.
- Different stages of intervention call for different priorities in terms of the health care that is offered to victims.
- Trafficked children and adolescents are an especially vulnerable group with special health needs.

The full text of the Budapest Declaration on Public Health and Trafficking in Human Beings is available at:

www.iom.hu/PDFs/Budapest%20Declaration.pdf

Health risks and needs of victims of trafficking

Victims of trafficking experience health risks at each stage of the trafficking process. In providing medical assistance to trafficking survivors, their particular needs must be assessed in the light of the risks that they have been exposed to.

Pre-departure (before a person is physically trafficked)

- Pre-departure medical history must be taken into consideration when conducting medical assessments and planning health-care assistance.
- The person is vulnerable to recruitment; mental and physical health characteristics of this state must be considered. Such factors will affect the person's health and health-related behaviour throughout the process.
- The person may come from an area with a poor health-care system, lack of adequate resources or difficult access to resources, such that their health problems have not been diagnosed or treated.

Travel and transit stage (in which the person is recruited and taken to the point of destination)

- The person experiences initial trauma, becoming aware of the deception and danger he or she is now in.
- The person is often exposed to dangerous modes of transportation, high-risk border crossings and arrest, threats, intimidation and violence, including rape and other forms of sexual abuse.

Destination stage (exploitation of the individual)

- The individual is put to work and subjected to coercion, violence, exploitation, debt-bondage or other forms of abuse (physical and mental).

- Rarely are trafficked persons able to seek medical or other assistance. The "assistance" they do receive may be inadequate or harmful. Lack of adequate health care can complicate other health issues.
- Living conditions may be inhumane and unsanitary.
- Working conditions may be dangerous.
- Trafficked persons can contract multiple infections, injuries, illnesses and other health problems, such as:

  Sexually transmitted diseases, HIV/AIDS, pelvic pain, rectal trauma and urinary difficulties

  Infertility from chronic untreated sexual diseases or failed unsafe abortions

  Infections or mutilations caused by unsanitary or dangerous medical procedures

  Chronic back pain, weak hearing, weak eyesight and cardiovascular or respiratory problems from working in dangerous conditions

  Malnourishment and serious dental problems

  Infectious diseases such as tuberculosis

  Pain and injuries from physical abuse and torture

  Substance abuse problems

  Psychological trauma from daily physical and mental abuse, including depression, stress-related disorders, disorientation, confusion, phobias and panic attacks

  Feelings of helplessness, shame, humiliation, shock, denial or disbelief

Detention, deportation and criminal evidence stage (the individual is in the custody of the police or immigration authorities or is cooperating in legal proceedings)

- Conditions in some detention facilities are very harsh and pose physical health risks.
- Contacts are almost exclusively with the authorities, which can have an impact on the mental health of victims.

Integration and reintegration stage (a long-term and complicated process only complete when the individual becomes an active participant in the economic, cultural, civil and political life of a country)

- Trafficked persons can experience anxiety, isolation, aggressive feelings or behaviour, self-stigmatization, perceived or actual stigmatization by others, difficulty in accessing resources and in communicating with support persons, and negative coping behaviour (e.g. drug use).

Source: The IOM Handbook on Direct Assistance for Victims of Trafficking, available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

and the United States Department of Health and Human Services, at:

www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/health_problems.html

Recommended resources

The IOM Handbook on Direct Assistance for Victims of Trafficking

Chapter 5 of *The IOM Handbook on Direct Assistance for Victims of Trafficking*, published in 2007, discusses health considerations with respect to assisting victims of trafficking in countries of origin, transit and destination. The chapter emphasizes the need to develop minimum standards.

The IOM handbook is available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Stolen Smiles: the Physical and Psychological Health Consequences of Women and Adolescents Trafficked in Europe

A study published in 2006 by the Centre for Research on Gender Violence and Health of the London School of Hygiene and Tropical Medicine, entitled *Stolen Smiles: the Physical and Psychological Consequences of Women and Adolescents Trafficked in Europe*, draws attention to the health implications of trafficking in women and provides fact-based information on the range of health consequences of such trafficking. The aim of the study is to contribute to more holistic health care for women who have been trafficked.

This study of the London School of Hygiene and Tropical Medicine can be found at:

www.lshtm.ac.uk/genderviolence/recent.htm

Breaking the Cycle of Vulnerability: Responding to the Health Needs of Trafficked Women in East and Southern Africa

This IOM report looks at health risks that trafficked women encounter in East and Southern Africa and finds that, in all three trafficking trends it examines, women are vulnerable to sexual, reproductive and mental health-related problems. The report asserts that attention to those issues should be integrated with prevention efforts, legislative change and victim assistance and return, to address the problems that trafficked women encounter.

This IOM report is available at:

www.iom.org.za/HIVAIDSPublications.html

Tool 8.6 Psychological assistance

Overview

This tool examines the common psychological reactions 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 family, friends and religious and cultural systems, the destruction of central values relating to 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 re-establishment of a normal life. A number of basic elements for 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 for victims to move forward, strategies must be sought that give them as much control over the recovery process as possible.
- **Restoring attachment and connections to others**. The fundamental challenge for assistance workers is to act in a way that is caring, giving and 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 a sense of purpose, as well as personal dignity and self-respect**.

Models such as the one presented in the chart below provide guidance to therapists on 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.

Supportive responses to common reactions to trafficking in a service setting

Common reactions to trafficking	*How reactions may manifest themselves in a service setting*	*Supportive responses to negative reactions*
Fear, insecurity, anxiety	Reluctance to meet people, go outside or be alone; trembling, shaking or heart racing; difficulty sitting still or concentrating	Implementation of security measures; description and reassurance of security measures; confidentiality, and security of physical venue; accompaniment to outside appointments or errands
Mistrust of others	Wariness of service provider and of offers of assistance; reluctance to disclose information; giving false information; difficulties in relationships with support persons, co-residents, others in programme, family etc.	Patience and persistence in developing relationships; unconditional provision of practical assistance and moral support; regular inquiries into needs and well-being
Mistrust of self, low self-esteem	Passivity, difficulty making decisions or trusting one's decisions; difficulty planning for the future; hyper-sensitivity or hyper-responsiveness to others and outside influences	Creating small tasks, setting short-term goals, fostering short-term accomplishments, validating achievements
Self-blame, guilt, shame	Difficulty making eye contact, difficulty in expressing oneself; difficulty in disclosing details of events and feelings; reluctance to undergo physical examinations, to participate ingroup or other forms of therapy	Reassurance that what happened was not her or his fault, reminder that trafficking is a crime that victimizes many people and that they are not alone; reminder of her or his courage and resourcefulness under extreme conditions

Anger towards self or others	Hostility or violence towards support persons or others (e.g. co-residents, family); self-inflicted physical harm; sabotaging her or his own process of recovery; over-reacting; unwillingness to participate; blaming or accusatory towards others; uncooperative or ungrateful responses	Patience; remaining calm in the face of hostility, not reacting with anger, hostility or showing frustration; implementation of reasonable and proportional measures to ensure the person's safety; implementation of reasonable and proportional measures to ensure the safety of others
Memory lapses, dissociation	Inability to recall details or entire passages of the past; altering accounts of past events; seeming unwillingness to respond or to answer questions	Not judging or condemning the person; not pressuring or harassing the person; understanding the importance of forgetting for some people
Isolation, loneliness	Sadness, depression, disengagement from others and activities, lethargy; seeming self-absorbed or self-centred; believing no one can understand	Offering phone contact (or other contact) with family, friends etc.; opportunities to participate in one-to-one or group activities; planned tasks or events
Dependence, subservience or defensiveness	Inability or reluctance to make decisions; desire to please; easily influenced; inability to assert self or personal preferences; regular complaining; refusal or reluctance to accept assistance, advice	Assigning small tasks; setting limited goals; reassuring the persons of their abilities and capacity, not fostering dependence by assuming all responsibility for the person's welfare (allowing persons to choose when, how or if they wish to be assisted)

Source: C. Zimmerman, 2004, "Trafficking in women: conceptualizing and measuring health risks and consequences", PhD dissertation, Health Policy Unit, London School of Hygiene and Tropical Medicine, London.

Recommended resource

Chapter 5, section 5.7 of *The IOM Handbook on Direct Assistance for Victims of Trafficking*, published in 2007, addresses mental health considerations.

The IOM Handbook is available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Tool 8.7 Material assistance

Overview

This tool introduces considerations to be taken into account in providing victims with material and financial assistance.

Article 6, paragraph 3 *(c)* of the Trafficking in Persons Protocol calls on States parties to consider implementing measures for the provision of material assistance to victims of trafficking. Victims of trafficking are likely to need food, accommodation, clothing, medical care, psychological support, legal advice, local transportation, language and other courses, and other things which assist their rehabilitation.

Two main models for providing assistance to victims of trafficking

- Direct financial assistance to victims from Government sources

  This would, for example, allow them to access social welfare benefits on a monthly basis

  There are many advantages to providing direct financial support to victims; however, victims of trafficking are generally not eligible for such funding

  The provision of financial assistance should be considered on a case-by-case basis, depending on the individual circumstances of the individual victim

- Direct material assistance from organizations and institutions involved in the support and protection of victims of trafficking

  For example, where victims of trafficking receive material support in the form of food, accommodation and clothing etc.

  Such support is generally provided by non-governmental organizations and other service-providing organizations

Advantages of direct financial assistance

For a victim, having access to a certain amount of money can have a positive effect on their psychological stabilization and their overall rehabilitation. Through being provided with limited finances:

- The trafficked person is given the opportunity to regain control over daily decision-making
- The trafficked person is given the opportunity to learn to manage financial resources

Potential donors of financial assistance

- National Governments through, for example:
  - Government programmes
- Social welfare programmes
- Asylum or refugee funding
- Crime-victim compensation or criminal procedure funds
- Programmes relating to the prevention of violence against women
- Programmes relating to youth
  - Anti-trafficking projects
- Foreign Governments through:
  - Consular services
  - Foreign aid
- International organizations through anti-trafficking projects
- Non-governmental organizations, faith-based organizations, charities and humanitarian programmes.

Source: This topic is discussed in greater detail in *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook* (Warsaw, OSCE, 2004), available at:

www.osce.org/publications/odihr/2004/05/12351_131_en.pdf

Tool 8.8 Shelter programmes

Overview

This tool reviews some basic considerations that must be kept in mind in providing victims with safe shelter.

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 leaving can involve 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 their safety and security (in both the short and long term and in both the State of destination and that of return) are made available to victims of trafficking.

Types of shelter

The victims of trafficking have 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 process of recovery. The need they experience may be for one of the following types of shelter:

Immediate, safe and short-term shelter

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.

Temporary but safe and secure shelter with opportunities for other needs to be met (e.g. medical, psychological, legal)

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 in 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.

A halfway house, hostel, transitional housing or other assisted lodging arrangement

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 of unwanted interference for a period while they recover from their ordeal and find some new direction for their lives. The essential elements of these shelters are a supportive environment, the provision of information about available services and access to community facilities and services. When victims are not faced with imminent deportation or repatriation, less institutionalized forms of shelter may be appropriate.

A place where they can live independently

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 great and opportunities for assistance and self-development may best be provided by longer-term or permanent shelter and support.

Safe housing and shelter should be flexible to adapt to different target groups (men, women, children) and individual victims of trafficking with individual needs. Specialist non-governmental organizations provide the expertise and operational management, with funding from Governments. With this planned approach, the victims' move towards independence and control over their lives.

The critical aspect of shelter programmes is that the housing provided is matched to comprehensive and focused programmes of assistance, with the type of shelter matching the stage of recovery and the needs of individual victims of trafficking.

Housing needs of child victims of trafficking

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 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.

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 agencies or other institutions that come into contact with presumed trafficked persons. These centres 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 of social services in the State that is accessible to trafficked persons. Furthermore, they can collect anonymous data on trafficking cases. In Serbia, for example, a team consisting of representatives of the main anti-trafficking non-governmental organizations and social welfare authorities was created to assess trafficked persons in a referral and counselling centre (drop-in centre) and then refer them to advanced services, including a shelter.

Confidential shelter

A confidential shelter should create a safe haven for a trafficked person by providing 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 use for this purpose of decentralized, flexible and secret apartments, instead of one central building, has the advantage of a higher level of security. Once such a system is in place, apartments can be rented and given up frequently, so that the person's address remains secret for longer periods. Moreover, decentralized apartments help ensure the 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; a Practical Handbook (Warsaw, OSCE, 2004), available at:

www.osce.org/documents/odihr/2004/05/2903_en.pdf

Recommended resource

The IOM Handbook on Direct Assistance for Victims of Trafficking

Chapter 4 of *The IOM Handbook on Direct Assistance for Victims of Trafficking*, published in 2007, addresses the establishment of shelters for victims of trafficking, shelter management and staffing, procedures for assisting residents of the shelter, the treatment of shelter residents and the provision of shelter services and assistance. This extensive chapter offers essential resources, such as guidelines for developing staff codes of conduct, shelter rules and residents' rights.

The IOM Handbook on Direct Assistance for Victims of Trafficking is available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Promising practice

Because of the holistic approach which is required in providing meaningful assistance to victims, promising practice with regard to shelters for victims of trafficking has been provided in the tool on integrated services (Tool 8.10).

Tool 8.9 Rehabilitation, skills training and education

Overview

This tool presents some examples of the assistance that can be provided to protect victims from revictimization.

There are a number of complex issues affecting the successful return and reintegration of victims of trafficking. Rehabilitation assistance, skills training and education will often need to be part of a victim's reintegration and are essential to break the cycle of revictimization.

Whether trafficked victims are permitted to remain in the destination State or eventually return home, education, training and rehabilitation should be provided to those who need them. Where States provide temporary residence permits to victims of trafficking, there may be an opportunity for the victims to benefit, prior to their return home from education, training or retraining and employment opportunities available in that State. This can significantly help victims prepare for their return to 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. The potential for this type of assistance to help victims break the cycle of revictimization in which they can become caught is considerable. 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 internship or apprenticeship programmes can be a major asset.

Reinsertion into education

Helping victims of trafficking complete their education should be considered a priority, where possible. In cooperation with the national authorities, the organization which receives victims in their State of origin can facilitate the reinsertion of victims into the education system and/or provide financial support for education.

Vocational training

Vocational training is often offered by non-governmental organizations, educational institutions, charitable organizations, religious groups or Government partners, or a combination thereof. Vocational training is an important element to include in reintegration plans, as a means of ensuring the sustainable social integration of victims by increasing their employment prospects, confidence and life skills. Service delivery organizations should assist victims to set realistic employment goals commensurate with their abilities, skills and

education level, and the available employment opportunities in the area. Vocational training should be voluntary and decided upon on a case-by-case basis.

Micro-enterprise and income-generating activities

Where victims are particularly entrepreneurial, income-generating activities and grants for micro-enterprises can be an effective means of increasing the victim's independence, self-sufficiency and self-confidence. To be effective, income-generating projects often need to be integrated with other reintegration components (such as psychological assistance and vocational training). Such measures should be decided upon on a case-by-case basis, taking into consideration the particular person's experience, education, skills, personality and commitment to manage a micro-business.

Job placement, wage subsidies and apprenticeship programmes

A victim's lack of employment prospects may have been a contributing factor to his or her initial vulnerability to trafficking. Many victims have little experience in finding and keeping jobs; assistance may be necessary to assist them in finding a job and in managing their relationships with colleagues and employers to keep that job. Relevant State agencies may assist with identifying appropriate workplaces and the recruitment process. Where employers are reluctant to employ returnees, wage subsidies or apprenticeship programmes may provide incentive to employers and assist the returnee in gaining employment.

Source: The IOM Handbook on Direct Assistance for Victims of Trafficking, available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Promising practice

Assistance in Nigeria

The United Nations Interregional Crime and Justice Research Institute in collaboration with the United Nations Office on Drugs and Crime

Within the framework of a programme of action against trafficking in young women and minors from Nigeria into Italy for the purpose of sexual exploitation, implemented by UNICRI in collaboration with UNODC, pilot social-reintegration activities have been designed to help trafficked and at-risk minors and young women to become economically independent and able to meet their own and their families' needs.

In Nigeria, members of a coalition of five non-governmental organizations working against human trafficking received training on victim assistance and social reintegration, and carried out pilot micro-finance activities for trafficking victims and vulnerable young women at risk of being trafficked in Edo State. Between December 2003 and April 2005, 79 young women received funding from the micro-finance project.

In the second phase of the programme, UNICRI and UNODC will continue granting assistance to Nigerian minors and young women who have been trafficked or are at risk of being trafficked, and providing support for their successful reintegration in Edo State. Activities will be implemented in cooperation with local non-governmental organizations, Government institutions and civil society organizations. Rehabilitation and reintegration of the two key target groups will be facilitated through the provision of psychosocial, health and professional counselling to victims and their families, legal and administrative assistance and relevant information allowing them to envisage alternative strategies to make a living.

The project is also intended to expand access for trafficking victims and potential victims to micro-finance so that they can develop viable alternative income-generating activities. Besides offering small credits, the project will provide professional orientation, vocational and skills training and ongoing support to ensure that the victims and potential victims who opt to set up or join a small business can succeed in their ventures. This integrated set of activities will help empower trafficked and at-risk minors and young women (and their families), not only economically but also socially, and equip them with the necessary means to become settled and cater for their own and their families' needs.

Case-by-case monitoring and ongoing counselling and assistance will be provided by local non-governmental organizations responsible for providing support and assistance to the primary beneficiaries at the local level, until they are sufficiently self-reliant to pursue their ventures by themselves.

For further information, see:

www.unicri.it/wwd/trafficking/nigeria/microcredit.php

Tool 8.10 Promising examples of integrated services

Overview

This tool showcases some examples of comprehensive and integrated services for victims. Assistance measures which are not part of a comprehensive package of responses will not break the trafficking cycle effectively. The sustainable reintegration of a person who has been trafficked requires a holistic approach to meeting their wide range of needs. For related examples concerning child victims, see Tool 7.10.

A most critical factor with respect to assistance and support programmes for victims of trafficking is to ensure that the services they provide are comprehensive and integrated. Assistance in regard to medical, psychological and legal services, accommodation, and education and training will not function 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 particularly 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 following are examples of promising practice in offering services in a holistic manner to address various needs of individuals.

Promising practice

Caritas Migrants and Refugees Centre, Beirut

Two projects are currently being implemented by Caritas in Lebanon at its 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 offer each other mutual support.

The second project is aimed at creating 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 capacities for protecting and assisting 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 them 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.

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 by word of mouth.

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.

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 girls who have returned to

Viet Nam from Cambodia. The shelter provides the girls with vocational training to enable them to find a job after a 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 of IOM in this project, coordinates the reintegration of the children into their communities in cooperation with a local committee for population, family and children.

Rescue and Restore Victims of Human Trafficking campaign, 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 Rescue and Restore Victims of Human Trafficking campaign 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, at: www.acf.hhs.gov/trafficking/rescue_restore/index.html

Servizio Migranti Caritas, Italy

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 to become independent through work. Victims are given Italian lessons and other assistance to enable them to obtain legal employment. The vocational training given includes training for work in the hospitality industry, local manufacturing and the mechanical engineering industry, domestic service and care for the elderly. Victims are sheltered temporarily before being given lodging in independent flats.

Corporate Apprenticeship Programme, Philippines

The UNODC project "Support for victims/witnesses of trafficking in human beings in the Philippines" was aimed at strengthening and expanding the capacity of selected rehabilitation centres throughout the Philippines to restore the physical and mental well-being of trafficked victims. In addition, the project supported vocational skills training internships for victims and their families. The private sector in the Philippines also joined this initiative, through a corporate apprenticeship programme in which victims of trafficking are placed in various companies to learn skills (such as canning and making cookies). The project supported apprentices with food and transportation allowances.

Acting for Women in Distressing Situations, Cambodia

Acting for Women in Distressing Situations (AFESIP) is a non-governmental organization that cares for victims of trafficking and sexual slavery in Cambodia, with the long-term goal of successfully reintegrating them as financially independent members of their communities. As part of its reintegration efforts, AFESIP provides general education and vocational training to residents of various shelters. Basic education entails Khmer literacy, basic mathematics and personal hygiene and health. Vocational training in hairdressing is offered to residents of shelters in Phnom Penh and Siem Reap, who are also given basic training in business. Agricultural training is given to some younger shelter residents.

More information about AFESIP can be found at:
www.afesip.org

International Organization for Migration, Kyiv

The IOM office in Kyiv opened a rehabilitation centre and a shelter to provide protection and support to returned victims of trafficking. Working with the 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 network of some 15 Ukrainian non-governmental organizations to provide assistance to victims, and with the authorities to facilitate their reintegration. After victims leave the IOM shelter, regular contact is maintained to monitor their reintegration and to determine whether they or their families have been threatened or harassed.

International Organization for Migration, Russian Federation

As part of a project funded by the European Union with co-financing support from the Governments of Switzerland and the United States, IOM is implementing an anti-trafficking project in the Russian Federation, with the aim of (i) providing policy advice to the Government on how it can improve its legislative response to trafficking; (ii) preventing trafficking by strengthening the capacity of law enforcement agencies to combat it and by raising awareness of the problem; and (iii) building the capacity of national authorities and local non-governmental organization networks to protect and reintegrate victims of trafficking. The project activities with respect to assisting victims are:

- Establishing a mechanism for the referral of victims of trafficking to an appropriate agency/organization for assistance in the pilot regions, on the basis of inter-agency operational networks involving governmental authorities, non-governmental organizations and international organizations
- Assistance to victims of trafficking at the Rehabilitation Centre for Victims of Trafficking in Moscow
- Organization of specialized training and seminars for Rehabilitation Centre personnel (on medical assistance and psychological support for victims)
- Enhancing the non-governmental organization networks and capacity-building and training activities to enhance the non-governmental organizations' ability to provide effective rehabilitation and reintegration services to victims.

More information about this project can be found at:
http://no2slavery.ru/eng/project/

Baan Kredtrakarn, Thailand

A Government shelter in Bangkok, Baan Kredtrakarn provides protection and assistance to women and children. The shelter can accommodate around 500 girls and women, and a significant number of its population are victims of trafficking. The shelter offers counselling, prepares residents for testifying in court and provides vocational training with the intention of reintegrating victims back into society. Baan Kredtrakarn provides services to trafficking victims while they are staying at the shelter and also assists in the repatriation, reintegration and follow-up of non-Thai nationals. Social workers or caregivers affiliated with the centre accompany victims to their country of origin to ensure their safe return, and cooperate with local governmental and non-governmental agencies for the continued provision of assistance to them.

Rescue home on the Indo-Nepalese border and support to victims of trafficking, India

Manav Seva Sansthan works to intercept and rescue victims of trafficking along the Indo-Nepalese border of Uttar Pradesh. It has established vigilance centres on the border in order to facilitate informed and safe mobility and the rescue of victims. The aim of the project is to:

- Counsel victims of trafficking and those intercepted during trafficking
- Provide a safe and comfortable environment for the victims to stay in during the process of reintegration/repatriation
- Provide legal and medical assistance for victims of trafficking
- Enhance self-confidence among victims and bring them back into the mainstream of development

With support from a global UNODC project entitled "Building non-governmental support structures for victims of violent crime, including victims of trafficking in persons", Manav Seva Sansthan established a short-stay rescue home at Nautanwa, adjacent to the border-crossing point of Sanauli—the first such home on the Indo-Nepalese border. The organization also works with law enforcement agencies and other non-governmental organizations to counsel and repatriate victims of trafficking.

For more information about this and other UNODC-assisted victim support projects, visit:

www.unodc.org/india/trafficking_human_beings.html

HIV/AIDS AND TRAFFICKING IN PERSONS

Tool 8.11 Overview of HIV/AIDS

Overview

This tool provides an overview of the issue of HIV/AIDS and flags the risk it poses to potential and actual victims of trafficking.

Because of the clandestine nature of the crime of trafficking in persons, there is inadequate information about its relationship with HIV/AIDS. In order to prevent the transmission of HIV in the context of trafficking for sexual exploitation, we must proceed on the assumption that people trafficked for the purpose of sexual exploitation are exposed to the risk of HIV infection.

The key points which lead to this conclusion are that:

- Populations involved in risky sexual behaviour are more likely to become infected with HIV
- People vulnerable to human trafficking are also at elevated risk of HIV
- The purposes of trafficking vary, but all trafficked persons are vulnerable to HIV for similar reasons, which can include:

  Unsafe sex with multiple partners

  Injecting drug use (voluntary or forced)

  Self-harm, body piercing and/or tattooing

Unsafe medical and/or surgical treatment (including during childbirth and voluntary or forced termination of pregnancy in unsanitary conditions, by unqualified practitioners, using unsterilized equipment)

Services and information aimed at preventing HIV/AIDS often do not reach trafficked persons. Therefore, in order to reduce the vulnerability of victims of trafficking to HIV infection, it is necessary to learn:

- How to reach vulnerable people
- The precise nature of their HIV risks
- What HIV services are required
- How services may be delivered to them

What is HIV?

- HIV stands for human immunodeficiency virus
- HIV is present in bodily fluids of infected persons, including semen, vaginal fluid and blood
- HIV can be transmitted sexually and through blood exchange between people
- People infected with HIV remain infectious for life—even when they look and feel healthy they can transmit the virus to others
- There is no cure or vaccine for HIV

What is AIDS?

- AIDS stands for acquired immunodeficiency syndrome
- AIDS is a group of diseases that can result from infection with HIV
- HIV damages the body's immune system, which normally provides protection from infections
- Most people with HIV eventually develop AIDS, but a person may be infected with HIV for many years before the immune system is so weakened that it cannot fight off infections as it used to

Who can become infected by HIV?

- Anyone can become infected with HIV—the virus that causes AIDS—so everyone needs to know how to protect himself or herself
- More and more people are becoming infected with HIV

How can a person become infected with HIV?

- Through unprotected sex with someone who is infected
- Through injections (e.g. using a syringe already used by another person) and transfusions of contaminated blood or blood products

- Infected pregnant women can pass HIV to their babies during pregnancy, delivery or breastfeeding
- Through use of non-sterile cutting instruments, such as needles, knives and razors

HIV cannot be transmitted through everyday contact with infected people

- It **cannot** be transmitted through shaking hands or hugging, or by sharing the same toilet or shower, household items, telephones, swimming pools or clothing with someone who is infected with HIV
- It **cannot** be transmitted through sweat, tears, sneezes, coughs or urine
- It **cannot** be transmitted through insect bites (such as mosquito bites)

Source: Chapter 5, section 8 of *The IOM Handbook on Direct Assistance for Victims of Trafficking,* available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Recommended resource

The Journal of the American Medical Association

In 2007, a study was published in *The Journal of the American Medical Association* on HIV prevalence in repatriated Nepalese girls and women trafficked into the sex industry. This comprehensive study—the first of its kind—found that one third of them tested positive for HIV and almost two thirds of people trafficked prior to the age of 15 tested HIV-positive.

"HIV prevalence and predictors of infection in sex-trafficked Nepalese girls and women", by Jay G. Silverman and others, in *The Journal of the American Medical Association,* vol. 298, No. 5 (2007), is available at:

www.jama.com

Tool 8.12 Responses to the vulnerability to HIV/AIDS of victims of trafficking in persons

Overview

This tool discusses responses to the vulnerability of trafficked persons to HIV/AIDS.

Government response

At the normative level

Governments should:

- Ratify the Trafficking in Persons Protocol
- Ensure that people vulnerable to human trafficking are recognized as most-at-risk populations in their relevant national AIDS strategies and action plans
- Ensure that HIV/AIDS services are recognized as deliverables for people vulnerable to human trafficking under their relevant national anti-human trafficking strategies and action plans

At the operational level

Governments should commit themselves to:

- Providing information and education on HIV/AIDS
- Providing voluntary and confidential HIV testing and counselling
- Promoting condom use
- Treating sexually transmitted infections
- Providing anti-retroviral treatment and palliative care for persons with AIDS
- Reviewing repatriation policies to incorporate HIV/AIDS prevention and care services
- Strengthening laws to counter stigmatization of and discrimination against people living with HIV/AIDS, especially victims of trafficking

In the Political Declaration on AIDS, annexed to General Assembly resolution 60/262, adopted on 15 June 2006, Member States committed themselves to:

> pursuing all necessary efforts to scale up nationally driven, sustainable and comprehensive responses to achieve broad multisectoral coverage for prevention, treatment, care and support, with full and active participation of people living with HIV, vulnerable

groups, most-affected communities, civil society and the private sector, towards the goal of universal access to comprehensive prevention programmes, treatment, care and support by 2010.

The full text of the Political Declaration on HIV/AIDS is available at:

http://data.unaids.org/pub/Report/2006/20060615_HLM_PoliticalDeclaration_ARES60262_en.pdf

Civil society/non-governmental organization response

Civil society organizations working in this area should commit themselves to providing health, social and legal assistance services to victims of trafficking, including:

- Comprehensive HIV/AIDS prevention and care services for repatriated victims of trafficking
- Assistance in reintegration, with a view to avoiding revictimization (through stigmatization and discrimination)

The Code of Good Practice for non-governmental organizations responding to HIV/AIDS is available at:

www.ifrc.org/what/health/hivaids/code/

United Nations response

The Joint United Nations Programme on HIV/AIDS (UNAIDS) brings together UNODC, UNHCR, UNICEF, the World Food Programme, UNDP, the United Nations Population Fund (UNFPA), ILO, the United Nations Educational, Scientific and Cultural Organization (UNESCO), WHO and the World Bank to work towards the goal of achieving universal access to HIV prevention and treatment. Universal access includes access for potential and actual victims of trafficking. The essential programmatic actions for HIV prevention recommended by UNAIDS are:

1. Prevent the sexual transmission of HIV
2. Prevent mother-to-child transmission of HIV
3. Prevent the transmission of HIV through injecting drug use, including by means of harm reduction measures
4. Ensure the safety of the blood supply
5. Prevent HIV transmission in health-care settings

6. Promote greater access to voluntary HIV counselling and testing while promoting the principles of confidentiality and consent
7. Integrate HIV prevention into AIDS treatment services
8. Focus on HIV prevention among young people
9. Provide information and education to enable individuals to protect themselves from infection
10. Confront and mitigate HIV-related stigma and discrimination
11. Prepare for access to and use of vaccines and microbicides

Source: www.unaids.org

"Safe mobility package" of the United Nations Office on Drugs and Crime

The Trafficking in Persons Protocol calls on countries to provide "for the physical, psychological and social recovery of victims of trafficking in persons, including . . . medical, psychological and material assistance" (art. 6.3).

The UNODC "Safe mobility package" is intended to assist countries in providing people vulnerable to trafficking with information to protect themselves from trafficking situations and from HIV infection. The safe mobility package tailors HIV prevention, treatment and care programme components for delivery at each stage of the trafficking process.

There are eight components of HIV programming:

- Information, education, communication (to raise awareness and provide knowledge to equip action)
- Use of male and female condoms to significantly reduce HIV infection
- Substitution treatment for injecting drug users
- Needle and syringe exchange programme for injecting drug users
- Voluntary counselling and testing (see Tool 8.14)
- Anti-retroviral treatment and palliative care
- Sexually transmitted infection diagnosis and treatment
- Anti-discrimination and stigma

For women who are pregnant or lactating, additional measures to prevent mother-to-child transmission are provided.

These eight components of HIV programming are to be matched to the various temporal and geographic stages of the trafficking process, understood (in this context of safe mobility) to be:

- Pre-departure
- Departure
- Travel/transit
- Arrival/exploitation
- Identification
- Rescue/other separation
- Rehabilitation
- Repatriation
- Reintegration

For example, pre-departure interventions might be limited to information, education, communication, while during the exploitation stage, the full range of services might be called for.

More information about the UNODC response to HIV/AIDS can be found at:

www.unodc.org/unodc/en/hiv-aids/index.html

Tool 8.13 HIV guidelines for law enforcers, prosecutors and judges

Overview

This tool provides HIV/AIDS guidance to law enforcers, prosecutors and judges with respect to people vulnerable to trafficking in persons. For more information on related issues, see Tool 5.15 and Tools 8.12 to 8.15.

People vulnerable to human trafficking are exposed to significant risks to their personal safety, their physical and psychological health, their economic security and their legal position. In particular, the legal status of trafficked persons in a destination county, usually as unlawful or undocumented arrivals, may have adverse consequences for their access to health and social services, financial support and legal assistance. The legal system as it is applied to persons vulnerable to human trafficking can play an important role in minimizing these risks and preventing further harm, but only where the risks are recognized and properly

managed. For these reasons, it is imperative that law enforcement officials, prosecutors and judicial officers are aware of and are able to respond appropriately to these risks, while at the same time carrying out their responsibilities within the justice system.

As soon as the safety of the victim has been secured, his or her psychological and physical health—including HIV/AIDS prevention and care—should take precedence over investigative objectives.

Interviews of victims of trafficking, including those conducted by law enforcers, judges and prosecutors should be guided by the WHO Ethical and Safety Recommendations for Interviewing Trafficked Women, available at:

www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf.

See also Tool 6.12 regarding ethical and safe interviewing conduct.

Law enforcement

As soon as the safety of persons vulnerable to human trafficking has been secured, attention to their psychosocial and physical health should take precedence. This includes assessing needs related to HIV status. They should be offered—with counselling as required in individual cases—the following:

- Rapid voluntary HIV testing
- Other sexually transmitted infection testing
- Post-exposure prophylaxis where indicated

Women and female children should additionally be offered pregnancy testing and/or prenatal care, where appropriate in individual cases. It should also be ascertained whether the person is currently lactating and, if so, breastfeeding.

Where infection is indicated:

- Appropriate sexually transmitted infection and/or HIV management plans should be developed cooperatively with the person or persons concerned. For children, this may be through their parent or guardian if they are accompanied, or through appropriately authorized child welfare officials otherwise.

  Management plans should include access to anti-retroviral medication, where indicated, and for pregnant or breastfeeding women, prevention of mother-to-child transmission measures.

  HIV prevention education should be offered.

Where reflection periods are available, appropriate prevention and protection means should be provided for the immediate duration and beyond.

Repeat testing should also be offered at regular intervals to detect possible infection during reflection periods (e.g. through further self-harm, injecting drug use, unprotected sexual activity).

- Where it is determined that a mother is HIV-positive, every effort should be made to determine the HIV status of infants so their health needs can also be appropriately met. Where appropriate, health providers may encourage such testing in the interest of patients, but this should not amount to compulsory or mandatory HIV testing.

From a law enforcement perspective, such measures are not only in the interests of the individuals concerned, but may also assist in achieving the aim of being able to present competent and cooperative witnesses in subsequent court proceedings.

Prosecutors

Prosecutors have particular duties to victims of crime who are called as witnesses. Their general responsibilities in this regard are discussed in Tool 5.13. The well-being and safety of such persons must be assured within the limits allowed by the legal system. Prosecutors should seek appropriate court orders to ensure the protection of such persons from further harm arising from their giving evidence, including risks of retribution against either themselves or third persons.

In relation to the HIV status of persons being questioned, protections must be in place to ensure that invasive questioning in relation to health and other intimate matters is avoided if irrelevant to the case. In some jurisdictions, there are barriers to asking alleged sexual assault victims questions about their past sexual experience, where it is not directly relevant to the facts of the case.

Where matters of an intimate nature—including aspects of sexual and reproductive health—are not material to the prosecution's case, they should not be raised in open court. In general, the HIV, sexually transmitted infection and pregnancy status of a person vulnerable to trafficking in persons should only be revealed during proceedings with the person's consent. Where consent is obtained, or where lack of consent is not determinative because of overwhelming evidentiary requirements, procedures should be adopted that minimize the distress or embarrassment of the person concerned. For example, pregnancy, HIV, sexually transmitted infection and other health status can be disclosed to the court through documentary evidence rather than through testimony and cross-examination, so that the judge and the opposing party's lawyers have sufficient information to perform their duties but this information is not disclosed to other persons who may be present. Procedures should be adopted to prevent subsequent unauthorized access to sensitive court records, or their unauthorized disclosure.

Judges

Questioning

- Judges are usually empowered to intervene when questioning of witnesses is unduly aggressive and to prevent irrelevant questioning. For instance, they may need to

intervene to prevent questioning about HIV or other health status where the issue is not material to the prosecutor's case.

- Where judges have discretion to issue orders concerning the manner of questioning, this should be done with due sensitivity to the interests of witnesses, to the extent consistent with ensuring a fair trial for the accused.
- Judges should familiarize themselves with means by which evidence such as that pertaining to HIV status can be disclosed to the court through documentary evidence rather than testimony.

Support persons

- Permission should be granted for support persons to be present in court, unless there are good reasons for not doing so; this may extend to health professionals, including HIV counsellors.

Sentencing

- In sentencing convicted defendants for people trafficking or related offences, judges should take into account any exposure of the victims to cruel, inhuman or degrading treatment, or to serious harm, including HIV infection.
- In appropriate circumstances, such factors may constitute aggravating factors for the purposes of length or type of sentence, or conditions of release. For instance, the trafficking of a person for sexual exploitation which results in HIV infection may qualify for an increased sentence, where provisions allow. In all cases where sentencing discretion exists, judges should be able and required to take into account the harm caused to the victim, including adverse health outcomes such as HIV infection.

Tool 8.14 Testing and counselling for HIV/AIDS among people vulnerable to trafficking in persons

Overview

This tool discusses testing and counselling for HIV/AIDS among people vulnerable to trafficking.

WHO and UNAIDS encourage States to increase their voluntary counselling and testing services and to standardize and expand provider-initiated testing and counselling so that more people learn their HIV status, particularly where HIV is concentrated, at the country level, among specific populations (e.g. injecting drug users, men who have sex with men). People vulnerable to human trafficking for the purpose of sexual exploitation might, in some circumstances, be considered eligible for provider-initiated testing and counselling.

Provider-initiated HIV testing and counselling is not an endorsement of coercive or mandatory HIV testing.

Provider-initiated HIV testing and counselling for people vulnerable to trafficking

HIV/AIDS as it relates to people vulnerable to trafficking is a relatively new area of investigation and response. In addition to the informed consent provisions of the WHO guidance on HIV testing and counselling, provider-initiated testing and counselling should only be offered in accordance with the following considerations.

Broadening of provider-initiated testing and counselling

- People vulnerable to trafficking should be offered voluntary counselling and testing upon being identified by authorities in countries of transit and/or destination.
- Although it is recommended that provider-initiated HIV testing and counselling be administered in well-established health-care facilities, people vulnerable to trafficking may be unlikely to present themselves to such facilities. The range of providers of such testing and counselling might therefore be broadened to include non-governmental organizations and other civil society entities that provide care and assistance to people vulnerable to trafficking.

Informed consent and pre- and post-testing counselling

- Trauma potentially suffered by people who have been trafficked should be taken into consideration when administering provider-initiated HIV testing and counselling, and special care should be taken to ensure that consent is based on true understanding of all of the issues.

Special attention for children and adolescents

- Special attention should be given to children and adolescents. The provision of pre-test information should include discussion of trafficking and HIV/AIDS as they relate to each other.

Training of medical staff

- In administering provider-initiated HIV testing and counselling, specially trained medical staff and attendants should be guided, in a non-discriminatory fashion, by the nature of the exploitation endured by the person concerned.

Relationship of HIV testing to other assistance

- Provider-initiated HIV testing and counselling and/or voluntary testing and counselling (if requested) should not be linked to any other form of potential assistance. However, HIV testing should be linked, without prejudice, to the provision of care and treatment.

Relationship of HIV testing to residency status

- A victim who tests positive for HIV should not have his or her residency permit revoked.
- Countries should amend legislation that allows for the deportation of non-citizens on the basis of their HIV status.
- Legislation should provide for the special nature of HIV status resulting from trafficking to be given additional favourable consideration when residency applications are being reviewed.

Monitoring and evaluation

- Countries should actively monitor and report on provider-initiated HIV testing and counselling for people vulnerable to trafficking.

Source: UNODC, 2008, draft guidance on provider-initiated HIV testing and counselling for people vulnerable to human trafficking.

Recommended resources

The WHO/UNAIDS *Guidance on Provider-initiated HIV Testing and Counselling in Health Facilities* and other resources are available at:

www.who.int/hiv/topics/vct/en/index.html

The IOM Handbook on Direct Assistance for Victims of Trafficking is available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452.

See also *IOM Guide for HIV Counsellors; IOM HIV Counselling in the Context of Migration Health Assessment* at:

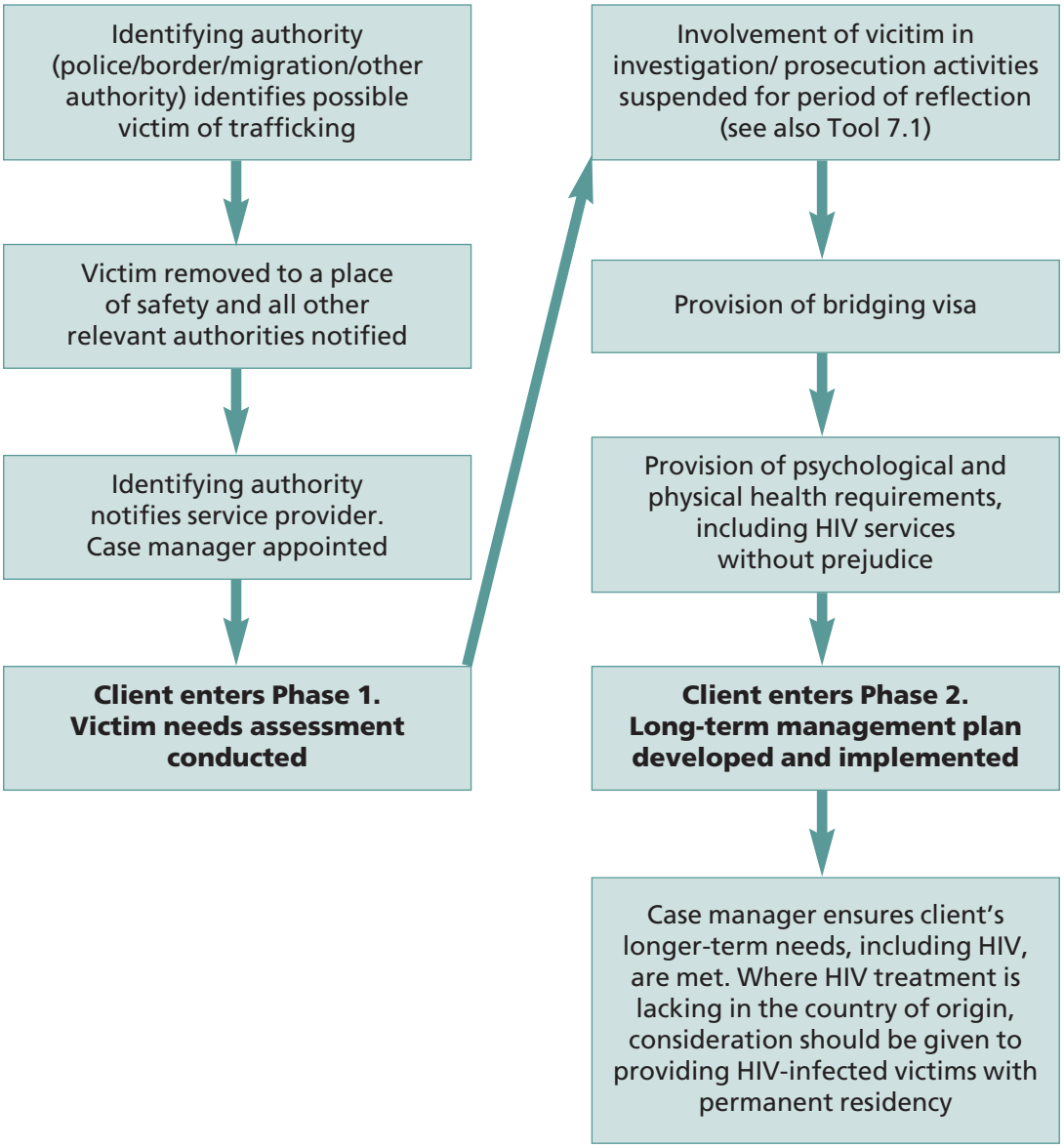
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=9054

Tool 8.15 HIV referral model for people vulnerable to trafficking in persons

Overview

This tool offers an HIV referral model in developed countries for people vulnerable to trafficking.

A referral model is a system for assisting clients to access services they need. The UNODC draft HIV referral model offered below emerged from consultative meetings held in Brisbane, Australia, in 2007. It is intended to guide people identified as possible victims of trafficking, in this case in a country of destination, to HIV services.



Promising practice

The model in place in the Philippines to provide victims of trafficking with appropriate care acknowledges the complexity of the needs of victims and provides a flexible system of services from which victims of trafficking can choose services that are relevant and accessible. The model addresses the provision of support services, assistance in accessing rights and entitlements, and measures for promoting restoration and reintegration within the community. Services are delivered through the Department of Social Welfare and Development regional centres, with outreach activities promoted through the assistance of non-governmental organizations.

The first three levels of the model are focused on assessing individual victims, to plan for their individualized assistance. Level one of the model addresses intake and assistance, level two psychosocial assessment and screening, and level three psychological assessment for victims with serious trauma.

More information is available via the website of the Department of Social Welfare and Development of the Philippines:

www.dswd.gov.ph

JUSTICE FOR VICTIMS

Tool 8.16 Access to information and legal representation

Overview

This tool explains the importance of providing victims of trafficking with access to information and, when required, legal representation to facilitate their participation in criminal proceedings against traffickers. For related information, see Tool 5.15.

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.

Victims should be supported in their efforts to participate in the judicial process 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: Handbook on Justice For Victims of Crime and Abuse of Power (chap. II, sect. D), available at:

www.unodc.org/pdf/crime/publications/standards_9857854.pdf

Facilitating the participation of victims in criminal proceedings

Trafficked persons need information, in a language that they understand, about the judicial 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.

Article 6, paragraph 2, of the Trafficking in Persons Protocol

The Trafficking in Persons Protocol creates an obligation on States parties to provide victims with information and an opportunity for their views and concerns to be presented at criminal proceedings against offenders. (The basic obligation to ensure that victims are permitted an opportunity to participate is set out in article 25 of the Transnational Organized Crime Convention.) Such presentation could be in the form either of written submissions or oral statements and is to be done in a manner not prejudicial to the rights of the defence.

The Trafficking in Persons Protocol also requires States 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.

Article 6, paragraph 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.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

The 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 the role of judicial and administrative processes, of 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.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims 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 where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

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 the legal duty of authorities involved in criminal proceedings to provide information to victims of crime. One 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 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 trauma 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 the 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 should have acquired the necessary expertise to represent them effectively during the various legal proceedings.

Promising practice

Cambodia

Action pour les enfants (www.aplecambodia.org) is a non-governmental organization established to combat the sexual exploitation of children. In addition to social workers who provide counselling and rehabilitation services to child victims, the organization's lawyers provide pro bono legal advice and representation to children and their families. The organization also monitors cases before Cambodian courts, reports on adherence to legal procedures and collaborates with foreign law enforcement and international organizations in education, advocacy and awareness-raising activities.

Through the **Cambodian Defenders Project** (www.cdpcambodia.org), a group of lawyers working in Cambodia assists people through the legal process and to develop the legal system. The Project's Centre Against Trafficking provides legal assistance to victims of trafficking and conducts training for local police authorities in relation to trafficking investigations.

Moldova

The **Centre for Prevention of Trafficking in Women** (www.antitraffic.md) provides free legal assistance for victims of trafficking and offers training to law enforcers, prosecutors, judges and border guards.

Tool 8.17 Restitution and compensation for victims

Overview

This tool refers to the provisions of the Organized Crime Convention and the Trafficking in Persons Protocol that require appropriate procedures to be established to provide compensation. The tool also discusses the purpose and source of compensation, and principles concerning its provision contained in international and regional instruments. Lastly, some promising examples of domestic systems providing compensation to victims of trafficking are highlighted and resources for strengthening compensation mechanisms are recommended.

The Trafficking in Persons Protocol and the Organized Crime Convention

Article 6, paragraph 6 of the Trafficking in Persons Protocol states: "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". This means that when the possibility of obtaining compensation does not exist under national law, legislation may be required to establish appropriate schemes.

The corresponding provision of the Organized Crime Convention, found in article 25, paragraph 2, requires that at least some "appropriate procedures" are established to provide access to compensation or restitution.

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:

(a) Provisions allowing victims to sue offenders or others under statutory or common-law torts for civil damages;

(b) Provisions allowing criminal courts to award criminal damages (i.e. to order that compensation be paid by offenders to victims) or to impose orders for compensation or restitution against persons convicted of offences;

(c) 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 legislative framework establishing the mechanisms to make compensation claims is an important starting point for providing trafficked persons with access to compensation for harm suffered and wages lost. However, the mere existence of such laws is not sufficient.

Source: Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (United Nations publication, Sales No. E.05.V.2). These guides can be consulted at:

www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

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. Access to compensation is closely linked to other issues:

- **Information**. Trafficked persons are often prevented from gaining 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 officers or private lawyers is an important prerequisite for such access. For more on this, see Tool 8.4 and Tool 8.15.
- **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. See Tool 4.6 and Tool 5.7.

Despite the importance to victims of trafficking of receiving compensation, their right to compensation is much neglected.

The purpose of compensation

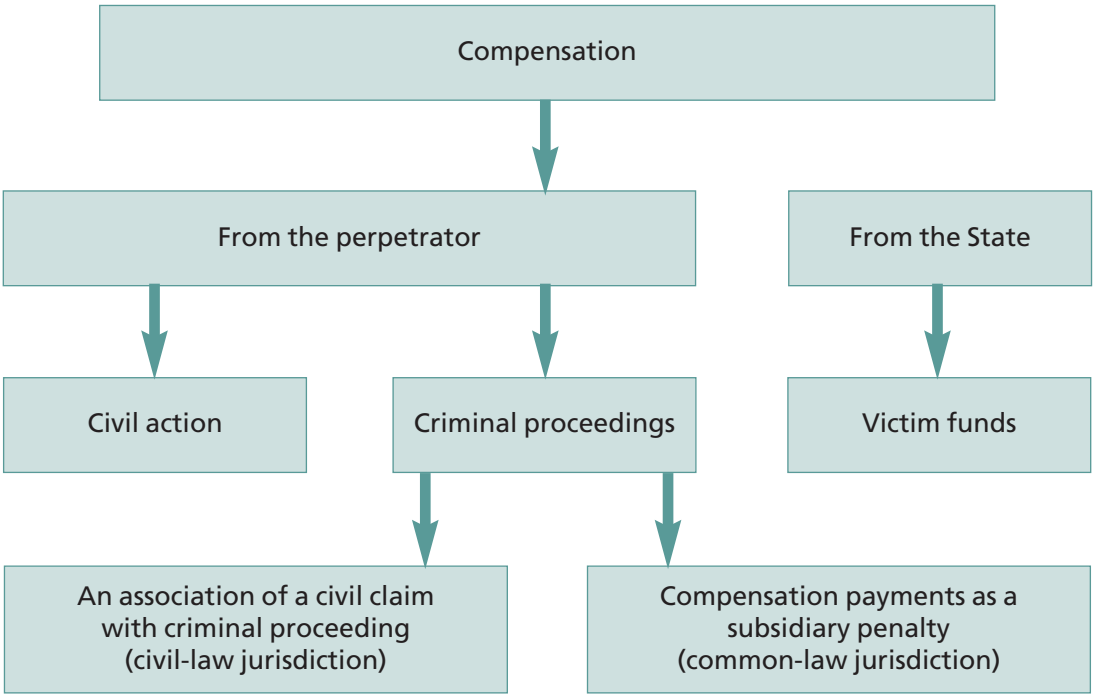
Receiving compensation is important for victims of trafficking not only because of the financial component but also because it has a symbolic meaning.

- At a societal level, awarding compensation acknowledges that trafficking is a crime
- At an individual level, the victim's pain and suffering are acknowledged and compensation can constitute a first step towards overcoming trauma inflicted and abuses suffered
- At a practical level, compensation can assist victims in rebuilding their lives
- At a retributive level, compensation paid by traffickers can constitute a form of punishment and deter other traffickers

Sources and types of compensation

Article 14 of the Organized Crime Convention provides a legal basis for States parties to cooperate internationally in matters of compensation. Article 16 of the Convention requires States parties to give priority consideration to returning the confiscated proceeds of crime or property to the requesting State party so that it can give compensation to victims. Article 25 requires States Parties to establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by the Convention. Their right to such access must be communicated to victims.

Within different legal frameworks, there are three main methods of obtaining compensation payment: through criminal proceedings, through civil action (including claims for damages and under labour laws) and through administrative systems (such as State compensation schemes—funds established by Governments).



Source: OSCE, *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook*, p. 84

Civil law procedures

In most countries, victims can pursue a civil claim for compensation on the basis of a wrongdoing which has caused them loss in tort law or under contractual rights (fraud, assault, imprisonment, debt). It is also necessary to note that victims of trafficking may have rights in labour law regardless of the existence of any form of contract. Although such civil law proceedings may seem more accessible to a trafficking victim than criminal proceedings, as the police are not involved, they still require a perpetrator to have been identified and, if the victim is to receive compensation, the perpetrator must be within the jurisdiction and financially solvent. Damages will be calculated on the basis of national civil law and will usually include both moral and material damages.

Criminal law procedures

Some countries connect civil actions for compensation with criminal proceedings against the perpetrator. This means that a single trial both punishes the perpetrator and compensates the victim, thus reducing the stress on victims. This is also achieved in countries where payment of compensation is part of the sentence imposed on the perpetrator. Where civil proceedings are appended to a criminal case, there is the dual advantage of having two procedures rolled into one, and the prosecutor is responsible for gathering and presenting

evidence on the liability of the perpetrator to pay compensation. In some countries, a court order for compensation to be paid by the perpetrator can be made at the sentencing. Criminal compensation calculations may be made on the same basis as in national civil law or on a completely different basis. These types of claim require a victim to have been identified by the authorities and for a perpetrator to have been prosecuted and found guilty in criminal proceedings. Prosecuting trafficking offences is difficult, however, because often the offender is unknown or has fled the jurisdiction or there is insufficient evidence of the involuntary nature of the work performed by the victim, or the victim is unwilling or unable to cooperate with law enforcement.

Special funds to provide compensation claims

Compensation can also be paid by or through the State. Some countries have established State-administered schemes for victims of violent crime. State-funded or State-subsidized compensation schemes have the great advantage of providing a guaranteed payment of compensation to the victim and it is not necessary for a specific perpetrator to be located or identified. A police report, together with a willingness on the part of the victim to assist the police with the investigation is usually sufficient. State schemes may also be relatively streamlined and unbureaucratic, and quicker than civil proceedings.

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. In order for such funds to assist victims effectively:

- There should be no exclusion on the grounds of "illegality" (given that people who are trafficked rarely have legal status in their destination country)
- The process should be simple and efficient (given that most victims are promptly returned to their country of origin)
- Victims should be protected from revictimization by the court process to the greatest extent possible

The compensation claim

A claim can potentially be made up of several bases on which compensation is requested, including but not limited to:

- Pain and suffering due to physical or psychological violence
- Medical expenses
- Unpaid or underpaid wages
- Reimbursement of illegal "fees" paid to a recruitment or employment agency, or for smuggling or transportation
- "Fines" imposed by traffickers for bad behaviour
- Excessive, fraudulent or illegal "deductions" from wages for rent, subsistence, transport, tax or social security "payments"

Enforcement is far easier where assets have been traced, seized or frozen and confiscated in the course of civil or criminal proceedings. For more on asset seizure and confiscation, see Tool 4.6 and Tool 5.7.

Aggravated, exemplary or punitive damages may be available to trafficking victims in some jurisdictions. They usually serve to punish a wrongdoer for particularly outrageous conduct, therefore having a deterrent element, and can be related to the wealth of the wrongdoer. These concepts will be novel to other jurisdictions but there is nothing to prevent States introducing such concepts where the types of action for which compensation is being claimed warrant a particularly punitive response as a matter of public policy.

The quicker and easier a compensation scheme is to navigate, the more accessible it will be for victims, both internally and internationally. Specific challenges are posed by the transnational nature of trafficking in human beings. Victims who have changed jurisdiction face clear practical difficulties in pursuing a compensation claim across borders. They also face difficulties when a trafficker is transferred to another jurisdiction for prosecution or when a criminal or defendant in a civil/labour lawsuit has assets located mainly outside the territory. Some important things to ensure are:

- Access to translators to overcome language barriers (see Tool 8.4)
- Access to information about laws and procedures in the country where the claim is made (see Tool 8.15)
- Efficient and comprehensive evidence gathering (see Chapter 5)
- Assistance to cover travel costs and in obtaining visas for attending hearings

Source: National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook (Warsaw, OSCE, 2004), available at:

www.osce.org/documents/odihr/2004/05/2903_en.pdf

Principles of providing compensation to victims of crime

International principles

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

In accordance with principles 8 to 13 of the Declaration of Basic Principles of 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 harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, provision of services and restoration of rights. States should encourage the establishment, strengthening and expansion of national funds for compensation to victims of crime.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants, of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

The Declaration is available at:
www.un.org/documents/ga/res/40/a40r034.htm

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

The relevant paragraphs of the Basic Principles and Guidelines (General Assembly resolution 60/147, annex) read:

19. *Restitution* should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

20. *Compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

(a) Physical or mental harm;

(b) Lost opportunities, including employment, education and social benefits;

(c) Material damages and loss of earnings, including loss of earning potential;

(d) Moral damage;

(e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

The Basic Principles and Guidelines are available at:
www2.ohchr.org/english/law/remedy.htm

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The International Convention on the Protection of the Rights of All Migrant Workers and Members of 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; 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.

The text of Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is available at:
www.un.org/documents/ga/res/45/a45r158.htm

European principles

Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings

This Framework Decision of the Council of the European Union is designed to afford the best legal protection and defence to victims, irrespective of the member State in which they find themselves. To that end, member States are called upon to align their legislation so as

to guarantee victims various rights, including those of compensation and refund of legal costs. In relation to victims' rights to compensation in criminal proceedings, article 9 of the Framework Decision states:

> 1. Each Member State shall ensure that victims of criminal acts are entitled to obtain a decision within reasonable time limits on compensation by the offender in the course of criminal proceedings, except where, in certain cases, national law provides for compensation to be awarded in another manner.
>
> 2. Each Member State shall take appropriate measures to encourage the offender to provide adequate compensation to victims.
>
> 3. Unless urgently required for the purpose of criminal proceedings, recoverable property belonging to victims which is seized in the course of criminal proceedings shall be returned to them without delay.

The full text of the Council Framework Decision is available at:

http://ec.europa.eu/justice_home/doc_centre/criminal/doc_criminal_intro_en.htm

European Convention on the Compensation of Victims of Violent Crimes

The European Convention on the Compensation of Victims of Violent Crimes (*European Treaty Series*, No. 116) of 1983 provides for victim compensation as follows:

> **Article 2**
>
> 1. When compensation is not fully available from other sources the State shall contribute to compensate:
>
> *(a)* Those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence;
>
> *(b)* The dependants of persons who have died as a result of such crime.
>
> 2. Compensation shall be awarded in the above cases even if the offender cannot be prosecuted or punished.
>
> . . .
>
> **Article 3**
>
> Compensation shall be paid by the State on whose territory the crime was committed:
>
> *(a)* To nationals of the States party to this Convention;
>
> *(b)* To nationals of all member States of the Council of Europe who are permanent residents in the State on whose territory the crime was committed.
>
> . . .

Article 8

1. Compensation may be reduced or refused on account of the victim's or the applicant's conduct before, during or after the crime, or in relation to the injury or death.

2. Compensation may also be reduced or refused on account of the victim's or the applicant's involvement in organized crime or his membership of an organization which engages in crimes of violence.

3. Compensation may also be reduced or refused if an award or a full award would be contrary to a sense of justice or to public policy (*ordre public*).

The full text of the European Convention on the Compensation of Victims of Violent Crimes is available at:

http://conventions.coe.int/treaty/en/Treaties/Word/116.doc

Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings (*Council of Europe Treaty Series*, No. 197, adopted by the Committee of Ministers on 3 May 2005 and opened for signature in Warsaw on 16 May 2005), contains several provisions about compensation, including the following key article:

Article 15. Compensation and legal redress

1. Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.

2. Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

3. Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.

4. Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in article 23.

The full text of the Council of Europe Convention on Action against Trafficking in Human Beings is available at:

www.coe.int/t/dg2/trafficking/campaign/Docs/Convntn/default_en.asp

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe

The OSCE Office for Democratic Institutions and Human Rights conducted an eight-country study to review systems and practice of awarding compensation to trafficked and exploited persons in Albania, France, Moldova, Romania, the Russian Federation, Ukraine, the United Kingdom and the United States, representing different legal traditions within the OSCE region. A background paper on the study, entitled "Compensation for trafficked and exploited persons in the OSCE region" was prepared for a workshop on the issue held in Barcelona, Spain, from 10 to 12 December 2007. It reported that there were various ways in which compensation can be paid:

- State-funded or subsidized compensation schemes
- "Damages" paid by the person responsible for loss or injury through criminal or civil proceedings
- Compensation through labour court proceedings

In assessing the effectiveness of compensation systems, the background paper found, inter alia, that:

- Access to other rights, so-called ancillary rights, such as advice services, security, legal, social and medical assistance as well as residence permits, for the duration of a claim procedure, is crucial to making compensation schemes accessible and effective for trafficked persons.
- The offence of trafficking may not be the offence prosecuted in a particular case, even though it exists in national law. This in turn may affect the victim's eligibility for compensation.
- The effectiveness of a compensation system is dependant on its overall legal environment; therefore efforts to improve compensation schemes may be fruitless if the rule of law is not adequate in a particular country and unless broader rule of law reforms are undertaken at the same time.

The background paper entitled "Compensation for trafficked and exploited persons in the OSCE region" will be published in 2008 and made available at:

www.osce.org/odihr/publications.html

Promising practice

Assistance and Compensation to Crime Victims Act (Bulgaria)

At its plenary sitting on 18 December 2006, the National Assembly of Bulgaria adopted the Assistance and Compensation to Crime Victims Act, which provides for the compensation of victims of crime, including persons who have been trafficked, and for the provision to them of support, such as medical assistance and legal advice. The authorities are given the responsibility of informing victims of such rights.

New South Wales Victims Compensation Tribunal (Australia)

The New South Wales Victims Compensation Tribunal was established under the Victims Support and Rehabilitation Act 1996, and consists of magistrates who determine appeals against rulings and make orders for recovery of money from convicted offenders, compensation assessors who make determinations in compensation claims and approve counselling applications, and tribunal staff who provide administrative support in the processing and determination of compensation and counselling claims, appeals and restitution. In May 2007, the Tribunal awarded compensation to a Thai woman who was trafficked to Australia as a child for the purpose of sexual exploitation.

www.theage.com.au/articles/2007/05/28/1180205160434.html

Law on Combating of Trafficking in Persons and Sexual Exploitation of Children Law No. 3 (1) of 2000 (Cyprus)

By virtue of article 8 of this law, victims of exploitation have a right to special and general damages from their perpetrators. In assessing such damages, courts can take into account the extent of exploitation, the benefit the perpetrator derived from the exploitation, the extent to which the future prospects of the victim were adversely affected by having being trafficked, the culpability of the offender and the relationship of the offender with the victim. Special damages can include all costs incurred as a result of the trafficking, including the cost of repatriation.

Israel

Legislation enables the Government to seize traffickers' assets for use in the rehabilitation of victims and for compensation.

Nigeria

The National Agency for the Prohibition of Traffic in Persons and other Related Matters of Nigeria was established pursuant to the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003. That Act, as amended in December 2005, provides for the creation of a trust fund to provide for victims' needs while they are in the care of the Agency and to provide them with compensation. The fund is to be derived from the auction of the seized and forfeited assets of traffickers. The Victim's Support Manual of the Agency states that a trafficked person has a right to compensation against his or her trafficker for economic, physical and psychological damage.

www.naptip.gov.ng/victimsup.htm

Serbia

Victims are able to file civil suits against traffickers. Victims pursuing criminal or civil suits are entitled to temporary residence permits and may obtain employment or leave the country pending trial proceedings.

Thailand

The draft prevention and suppression of human trafficking act criminalizes all forms of trafficking and provides for greater care and compensation for victims.

The former Yugoslav Republic of Macedonia

Victims can institute civil proceedings against traffickers to claim damages and compensation.

Hong Kong Special Administrative Region of China

Victims may initiate civil proceedings for damages or compensation arising from injuries sustained as a result of being trafficked.

Recommended resources

Global Alliance against Traffic in Women, "Material justice: seeking compensation in trafficking cases"

***Alliance News*, Issue 27 July 2007**

In this issue of its *Alliance News*, GAATW provides overviews and analyses of avenues of compensation for trafficked persons.

Issue 27 of *Alliance News* is available at:

www.gaatw.net/publications/Alliance%20News/July2007/Alliance News_July07final.pdf

Organization for Security and Cooperation in Europe, National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook

The OSCE national referral mechanisms handbook discusses compensation and seizure of criminal gains or assets. In section 5 of the handbook, types of compensation victims may be entitled to are examined, as well as the mechanisms by which such compensation can be delivered.

National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook (Warsaw, OSCE, 2004) is available at:

www.osce.org/documents/odihr/2004/05/2903_en.pdf

"Compensation for trafficked and exploited persons in the OSCE region"

This document was prepared by Katy Thompson and Allison Jernow for the workshop on compensating trafficked and exploited persons in the OSCE region, organized by the OSCE Office for Democratic Institutions and Human Rights in Barcelona, Spain, from 10 to 12 December 2007.

Upon publication in 2008, the document will be available from:
www.osce.org/odihr/publications.html

Civil Litigation on Behalf of Victims of Human Trafficking

This manual on civil litigation by Kathleen Kim and Daniel Werner was published in 2005 by the Legal Aid Foundation of Los Angeles.

The manual can be downloaded by visiting:
www.lafla.org/clientservices/specialprojects/trafres.asp

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

The UNODC legislative guides to the Organized Crime Convention and its Protocols provide some guidance on those provisions pertaining to compensation.

The guides can be consulted at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

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 prevent human trafficking effectively, 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. This area of trafficking response calls for a wide range of actors (from legislators and law enforcers to the media and the public) to cooperate in designing and implementing creative initiatives.

The present chapter discusses principles of prevention (Tool 9.1) and policies to address them. The root causes of trafficking (Tool 9.2) are multifaceted. They range from gender-based discrimination and economic disempowerment (Tool 9.3) to corruption (Tool 9.4), issues of citizenship (Tool 9.5) and safe mobility (Tool 9.6). Checklists are offered to assist in developing strategies to address these issues (Tool 9.7).

Raising awareness about trafficking is necessary to empower people to avoid falling prey to traffickers. Measures which can be taken to raise such awareness are discussed in Tool 9.8 and checklists to facilitate this process are offered in Tool 9.9. Effective awareness-raising requires a communication strategy to determine a clear message and ensure its clear delivery. A succinct guide to designing a communication strategy is offered in Tool 9.10. In times of emergency, people are rendered more vulnerable to exploitation and rapid response is necessary to protect them from an influx of traffickers who are attracted to areas with displaced populations; Tool 9.11 offers examples of effective and efficient responses.

Demand is a complicated process which must also be addressed to reduce the corresponding supply of trafficked persons. The complexities of demand are discussed in Tool 9.12 and the specific demand created by sex tourism is addressed in Tool 9.13. Efforts which can discourage those who service demand are considered in Tool 9.14. Tool 9.15 discusses the use and importance of standardized data collection instruments in targeting prevention responses, and the special role and responsibility that the media have with respect to proactively preventing and not inadvertently facilitating trafficking is discussed in Tool 9.16.

The important role that peacekeepers and other international law enforcement personnel play by not being a part of the trafficking problem and also by contributing to its solution are discussed in Tool 9.17 and relevant training tools in that context are presented in Tool 9.18. The under-addressed issue of trafficking in persons for organ removal is flagged in Tool 9.19.

Tool 9.1 Principles of prevention

ADDRESSING ROOT CAUSES

Tool 9.2 Addressing the root causes of trafficking
Tool 9.3 Eliminating gender-based discrimination and promoting women's economic rights
Tool 9.4 Prevention of corruption
Tool 9.5 Citizenship and statelessness
Tool 9.6 Measures relating to travel and identity documents
Tool 9.7 Prevention checklists

AWARENESS-RAISING

Tool 9.8 Awareness-raising measures
Tool 9.9 Awareness-raising campaign checklist
Tool 9.10 Designing a communication strategy
Tool 9.11 Rapid response: prevention during emergencies

DISCOURAGING DEMAND

Tool 9.12 Defining the concept of demand
Tool 9.13 Commercial sexual exploitation of children
Tool 9.14 Proactive prevention strategies: targeting traffickers
Tool 9.15 Use of standardized data collection instruments
Tool 9.16 The role of the media in preventing trafficking
Tool 9.17 Conduct of peacekeepers and other law enforcement personnel
Tool 9.18 Training for peacekeepers and other law enforcement personnel
Tool 9.19 Trafficking in persons for organ removal

Tool 9.1 Principles of prevention

Overview

This tool provides principles and guidelines for preventing trafficking in persons.

The prevention of trafficking in persons requires creative and coordinated responses. Efforts to deter traffickers by addressing the root causes that led them to become traffickers go hand in hand with the deterrent impact of criminal justice efforts. Victim assistance efforts to break the cycle of trafficking must be directed both at preventing victims from being retrafficked and also at preventing victims from becoming traffickers. And all of these responses must be considered for the data collection opportunities they provide—the more

that is learned about traffickers and their methods, the more that efforts to prevent trafficking can be meaningfully targeted. In short, prevention of trafficking is interlinked with all other responses to trafficking and therefore must be undertaken in a concerted, holistic way which acknowledges the complexity of trafficking in persons.

Often, efforts to prevent trafficking only address the so-called root causes of trafficking, such as poverty, lack of (equal) opportunity and lack of education. Further to this narrow focus, sometimes these issues are only addressed from the perspective of trafficking victims, rather than also addressing the root causes that contribute to a person becoming a trafficker. To merely address this stage in the process of trafficking is to neglect the whole picture. At one end of the trafficking process are the "supply" factors (in the place of origin), which relate to a person's vulnerability to recruitment or the lure of criminal activity; at the other are the "demand" factors (in the place of destination), which lead to the exploitation of trafficked persons. Between these poles are the porous borders (of countries of origin, destination and transit) which allow this illegitimate market to "trade" across borders.

Article 9 of the Trafficking in Persons Protocol emphasizes the need for States to address these aspects of trafficking in persons.

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.

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.

Recommended Principles and Guidelines on Human Rights and Human Trafficking

(E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights offer important guidance for anti-trafficking efforts. The guideline of key relevance to preventing trafficking in persons is provided below.

Guideline 7: Preventing trafficking

Strategies aimed at preventing trafficking should take into account demand as a root cause. States and intergovernmental organizations should also take into account the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination and prejudice. Effective prevention strategies should be based on existing experience and accurate information.

States, in partnership with intergovernmental and non-governmental organizations and, where appropriate, using development cooperation policies and programmes, should consider:

1. Analysing the factors that generate demand for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues.

2. Developing programmes that offer livelihood options, including basic education, skills training and literacy, especially for women and other traditionally disadvantaged groups.

3. Improving children's access to educational opportunities and increasing the level of school attendance, in particular by girl children.

4. Ensuring that potential migrants, especially women, are properly informed about the risks of migration (e.g. exploitation, debt bondage and health and security

issues, including exposure to HIV/AIDS) as well as avenues available for legal, non-exploitative migration.

5. Developing information campaigns for the general public aimed at promoting awareness of the dangers associated with trafficking. Such campaigns should be informed by an understanding of the complexities surrounding trafficking and of the reasons why individuals may make potentially dangerous migration decisions.

6. Reviewing and modifying policies that may compel people to resort to irregular and vulnerable labour migration. This process should include examining the effect on women of repressive and/or discriminatory nationality, property, immigration, emigration and migrant labour laws.

7. Examining ways of increasing opportunities for legal, gainful and non-exploitative labour migration. The promotion of labour migration by the State should be dependent on the existence of regulatory and supervisory mechanisms to protect the rights of migrant workers.

8. Strengthening the capacity of law enforcement agencies to arrest and prosecute those involved in trafficking as a preventive measure. This includes ensuring that law enforcement agencies comply with their legal obligations.

9. Adopting measures to reduce vulnerability by ensuring that appropriate legal documentation for birth, citizenship and marriage is provided and made available to all persons.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Trafficking in Persons Protocol and the Organized Crime Convention

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 of the Organized Crime Convention and in article 9 of the Trafficking in Persons Protocol. These are worded so as both to encompass 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 from other forms of revictimization.

The Protocol also seeks to prevent trafficking through measures intended to make it more difficult for traffickers to use conventional means of transport and entry into States: it requires States parties to ensure that border controls are effective and to prevent the misuse of passports and other travel or identification documents (see Tool 5.11 and Tool 9.6). These provisions, found in articles 11, 12 and 13 of the Trafficking in Persons Protocol, are identical to the corresponding provisions of the Migrants Protocol, which allows States seeking to ratify both Protocols to implement these measures jointly.

Recommended resources

A Handbook on Planning Projects to Prevent Child Trafficking

Terre des Hommes

This handbook, published in 2007, is intended to contribute to the improvement of efforts to prevent child trafficking. It brings together lessons learned and compiles them in a step-by-step format for policymakers, Governments, intergovernmental organizations and other organizations involved in deciding what activities should be undertaken and prioritized in combating trafficking of children.

A Handbook on Planning Projects to Prevent Child Trafficking is available at:

http://tdh-childprotection.org/component/option,com_doclib/task,showdoc/docid,471/

Trafficking in Human Beings in South Eastern Europe; 2004—Focus on Prevention

This report, published by UNICEF, the Office of the United Nations High Commissioner for Human Rights and the OSCE Office for Democratic Institutions and Human Rights examines the efforts of Governments and international and local non-governmental organizations to raise awareness and assist victims in Albania, Bosnia and Herzegovina, Bulgaria, Croatia and the former Yugoslav Republic of Macedonia, Moldova, Romania and the then Serbia and Montenegro (including the United Nations-administered province of Kosovo). The report, based on research carried out in South-Eastern Europe in 2004, calls for:

- Greater effort to address root causes of trafficking in countries of origin and destination
- Flexible anti-trafficking programmes that adapt to changing trafficking patterns

- Greater understanding of trafficking within the broader context of development, gender equality and poverty reduction
- Improved cooperation between institutions and development agencies on trafficking issues
- Continued strengthening of social protection systems to prevent child trafficking
- More research into facts that fuel demand for trafficking
- Greater involvement of civil society
- Long-term prevention measures to ensure long-term solutions

The report is available at:
www.unicef.org/media/media_25814.html

ADDRESSING THE ROOT CAUSES

Tool 9.2 Addressing the root causes of trafficking

Overview

This tool discusses the root causes of trafficking in persons and the economic and social policies identified in the OSCE Action Plan to Combat Trafficking in Human Beings aimed at addressing those root causes.

What are the root causes of trafficking?

The root causes of trafficking are various and often differ from one country to another. 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, 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 are 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.

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 they will have a better life and more opportunities.

In some States, social or cultural practices also contribute to trafficking. For example, the devaluation of women and girls in a society makes them disproportionately vulnerable to trafficking.

Added to these factors are the issues of porous borders, corrupt Government officials, the involvement of international organized criminal groups or networks and limited capacity of or commitment by immigration and law enforcement officers to control borders.

Lack of adequate legislation and of political will and commitment to enforce existing legislation or mandates are other factors that facilitate trafficking in persons.

In response to the above root causes, most 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

OSCE Action Plan to Combat Trafficking in Human Beings

Recommended preventive action at the national level

The Action Plan to Combat Trafficking in Human Beings adopted by OSCE contains a number of measures recommended for adoption at the national level in order to prevent

trafficking in human beings. They consist of: *(a)* measures relating to 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. The following economic and social policies are recommended:

In countries 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 countries 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 countries of origin and countries 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:
www.osce.org/documents/pc/2005/07/15594_en.pdf

Tool 9.3 Eliminating gender-based discrimination and promoting women's economic rights

Overview

This tool discusses the role that gender-based discrimination plays in exacerbating womens' vulnerability to trafficking and advocates the promotion of their economic rights.

Women are often discriminated against in terms of wages, access to labour markets and marketable vocational training. This increases their vulnerability to exploitation by traffickers. In addition, gender stereotypes perpetuate their over-representation in lower paid, less secure, traditionally female jobs and determine the distribution of responsibilities for paid and unpaid work.

Convention on the Elimination of All Forms of Discrimination against Women

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".

Beijing Platform for Action

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

Brussels Declaration on Preventing and Combating Trafficking in Human Beings

The Brussels Declaration was made at the European Conference on Preventing and Combating Trafficking in Human Beings, held in September 2002. In section 7 of the Declaration, entitled "Root causes", under the heading "Prevention of trafficking in human beings", it is stated that:

- An essential aspect of a human rights based approach to trafficking in human beings is to put emphasis on gender perspectives. A European counter-trafficking strategy should include the combating of gender-based violence and patriarchal structures that foster a favourable environment for trafficking.
- Legislation and policies on equal opportunities must protect and strengthen the legal and social position of women and children and specifically address all forms of gender discrimination.
- Support programmes should be established aiming at the full participation and empowerment of women in society, in particular in educational facilities and economic life, including support to female entrepreneurship.
- Support programmes should aim at the strengthening of efforts to tackle poverty and further marginalization, particularly among the most vulnerable groups of the population, including women and the girl child, in all countries of origin, transit and destination through measures designed to improve governance, material support, social protection and employment opportunities and sustainable economic development.

National gender-equality machinery

Many States have set up national gender-equality machinery. According to general recommendation No. 6 of the Committee on the Elimination of Discrimination against Women and the Beijing Platform for Action, such national gender-equality machinery should:

- Be established at a high-level of Government
- Have adequate resources
- Have a strong political commitment
- Have the authority/ability to influence policy
- Have 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 aimed at integrating a gender perspective into national laws, policies and programmes.

Promising practice

"Girls be Ambitious" (Cambodia)

Japan Relief for Cambodia and American Assistance for Cambodia

The objective of the Girls be Ambitious programme of Japan Relief for Cambodia and American Assistance for Cambodia, two non-governmental organizations, is to prevent the trafficking of Cambodian women and girls by raising awareness among those most vulnerable, providing incentives to keep them in school and providing vocational training that will improve their employment prospects, generate income and socially and politically empower them. The programme runs off the Rural School Project, a joint effort of the two organizations, which manages more than 300 schools in villages in Cambodia. The Girls be Ambitious programme provides financial assistance to families whose daughters attend school. Each month, home room teachers e-mail the programme an excel attendance sheet for sponsored girls; immediate payment of US$ 10 is provided where girls have achieved perfect attendance. Where girls do not have perfect attendance, the payment for that month is withheld pending the programme's investigations into the reasons for this lack of attendance.

In addition to the regular the school curriculum, participants in the Girls be Ambitious programme are provided with training in English, computer skills, handicrafts, agriculture and other vocational skills as well as awareness-raising programmes. Private persons or entities are called upon to participate in the project by sponsoring a participating girl for a school year for US$ 120.

More information about the Girls be Ambitious programme is available at:

www.camnet.com.kh/Girls-Ambitious

More information about the Rural School Project is available at:

www.cambodiaschools.com

Programmes to create jobs and training programmes for women (Bulgaria)

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. Of the 374 persons trained, 263 were women. A loan guarantee scheme was also established to facilitate women- or family-owned businesses accessing commercial credit from banks.

Victims of Trafficking and Violence Prevention Act of 2000, section 106 (a) *(United States)*

Section 106 *(a)* of this Act requires the Government of the United States to establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to preventing and deterring 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

Tool 9.4 Prevention of corruption

Overview

This tool introduces the United Nations Convention against Corruption and refers the reader to the United Nations Anti-Corruption Toolkit *and other relevant resources.*

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. At the recruitment stage, obtaining of fraudulent invitations or forged documents may be facilitated by corrupt officials. At the transportation stage, in exchange for bribes, officials may turn a blind eye and ignore victims of trafficking, allowing them to cross borders. At 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.

The Organized Crime Convention includes provisions relating to corruption in an organized crime context. However, because of the focused nature and scope of the Organized Crime Convention, States agreed that the multifaceted phenomenon of corruption could be dealt with more appropriately in a separate 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 Mérida, 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 of corruption. The level of support it has received indicates both an acute awareness of the severity of the problem and 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 also addresses the problematic areas of private-sector corruption. In addition, it 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. Lastly, 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:
www.unodc.org/unodc/en/corruption/index.html

For more on the Convention and its ratification status, see:
www.unodc.org/unodc/en/treaties/CAC/index.html

Recommended resources

United Nations Anti-Corruption Toolkit

The *United Nations 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 of 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 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 it is suspected

In encouraging those aware of corruption to report it, the greatest challenge is often their vulnerability to intimidation or retaliation by 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 *United Nations Anti-Corruption Toolkit* can be found at:
www.unodc.org/documents/corruption/publications_toolkit_sep04.pdf

Legislative Guide for the Implementation of the United Nations Convention against Corruption

A group of experts from all geographical regions, representing various systems of law, as well as observers from relevant United Nations entities and other international organizations participated in the development of the *Legislative Guide for the Implementation of the United Nations Convention against Corruption*.

The legislative guide is intended to assist States seeking to ratify and implement the Convention by identifying legislative requirements, issues arising from those requirements and various options available to States as they develop and draft the necessary legislation.

The legislative guide is available in Arabic, Chinese, English, French, Russian and Spanish, Arabic and Chinese at:

www.unodc.org/unodc/en/treaties/CAC/index.html

Conference of the Parties

The first session of the Conference of the Parties to the United Nations Convention against Corruption was held in Jordan from 10 to 14 December 2006. The resolutions which were adopted at that Conference are available at:

www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html

The second session of the Conference of the Parties to the United Nations Convention against Corruption was held in Bali, Indonesia, from 28 January to 1 February 2008. Further information about that session is available at:

www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html

Working groups established by the Conference of the Parties

At its first session, the Conference of the Parties established working groups, which met for the first time in Vienna in 2007.

Information on the first meetings of the Working Group on the Review of Implementation (29-31 August 2007), the Working Group on Asset Recovery (27 and 28 August 2007) and the Working Group on Technical Assistance (1 and 2 October 2007) is available at:

www.unodc.org/unodc/en/treaties/CAC/working-groups.html

Self-assessment of the implementation of the United Nations Convention against Corruption

UNODC has created a downloadable self-assessment of the implementation of the United Nations Convention against Corruption, available at:

www.unodc.org/unodc/en/treaties/CAC/index.html

Transparency International

Transparency International is a global civil society organization founded in 1993, with more than 90 national chapters. Transparency International raises awareness of corruption around the world by bringing together Government, civil society, businesses and the media to promote transparency in elections, in public administration, in procurement and in business. Transparency International also advocates for governmental anti-corruption reform. The five key priorities of Transparency International are:

- Corruption in politics
- Corruption in public contracting
- Corruption in the private sector
- International anti-corruption conventions
- Poverty and development

More information about Transparency International can be found at:

www.transparency.org

Transparency International's suggested reading about the United Nations Convention against Corruption can be found at:

www.transparency.org/global_priorities/international_conventions/readings_conventions#un

Tool 9.5 Citizenship and statelessness

Overview

This tool discusses the issue of citizenship as a means of preventing cross-border trafficking.

People without citizenship have limited or no access to justice, health care, travel, education, employment and political representation. A recent study published by the Vital Voices

Global Partnership, entitled *Stateless and Vulnerable to Human Trafficking in Thailand*, discusses the particular vulnerability to trafficking of ethnic minority groups who have no citizenship. The obstacles posed to such persons by their lack of citizenship makes their employment opportunities limited, thereby rendering them vulnerable to exploitation. Furthermore, people who have no citizenship who are ultimately trafficked will receive limited protection and assistance and may be denied re-entry to their State of origin.

The report analyses the legal dimensions of obtaining citizenship and the challenges faced by tribal peoples. It asserts that improving access to citizenship would be a significant contribution towards reducing vulnerability to human trafficking and recommends that the following measures be implemented:

- Birth registration of all children
- Improving the transparency of the application process for citizenship
- Eliminating fees associated with application for citizenship
- Training of local officials on relevant laws
- Elimination of restrictions on travel and access to education, health care and employment for non-citizens during the application process

Stateless and Vulnerable to Human Trafficking in Thailand is available at:

www.humantrafficking.org/publications/584

Promising practice

Highland citizenship and birth registration project

Dedicated efforts are being undertaken in Thailand to reduce the trafficking vulnerability of ethnic minorities. The Government is working with the Culture Unit of UNESCO to address the issue of lack of citizenship of highland girls and women in Thailand, affirmed as a major risk factor for their vulnerability to being trafficked or otherwise exploited. Without legal status, ethnic minorities are considered "illegal aliens" and can be subject to arrest, deportation, extortion and other forms of abuse. Not only does this breach their right to birth registration and nationality, but it also denies them their human rights to vote, own land and travel beyond their home districts or provinces (thereby restricting their employment opportunities), obtain certificates after completing schooling and access State welfare services, including health care and medical treatment.

In response to these findings, UNESCO is supporting non-governmental organizations and cooperating with UNIAP and agencies of the Government of Thailand in assisting hill tribespeople to register for citizenship.

More information about the Highland Citizenship and Birth Registration Project is available at:

www.unescobkk.org/index.php?id=1822

Tool 9.6 Measures relating to travel and identity documents

Overview

This tool introduces article 12 of the Trafficking in Persons Protocol, relating to security of travel and identity documents.

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 article makes it clear that this includes technical measures to make documents more difficult to falsify, forge or alter and administrative and security measures to protect the production and issuance process against corruption, theft or other diversion of documents. Indirectly, 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 document that uniquely identify individuals, can rapidly and accurately be 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 on the face of the document itself.

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.

Articles 11, 12 and 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.

For information on the related issue of border control measures, see Tool 5.11.

Tool 9.7 Prevention checklists

Overview

This tool, derived from A Handbook on Planning Projects to Prevent Child Trafficking, *is a checklist of preparatory steps which must be taken before a prevention initiative is started.*

Preparatory checklist

1. **Complete a problem analysis which:**
   - Distinguishes between trafficked persons and other migrants
   - Examines the different stages in the trafficking process
   - Places trafficking in context, determining whether it is a priority for the relevant community
   - Explores the reasons why people are trafficking in relation to: immediate causes; underlying and structural causes; institutional failure
   - Gives the most significant causes of trafficking priority attention
   - Identifies any particular groups of people being trafficked in disproportionately higher numbers than others or any salient characteristics among people who have been trafficked
   - Determines which groups of people, households and communities or places your campaign wishes to target
   - Is based on information from trusted and reliable sources
2. **Identify resources and opportunities available through:**
   - Mapping individuals and organizations that may play a role in addressing trafficking in areas about which you are concerned
   - Exploring potential complementary activities and overlap with the work being done by other organizations
3. **Assess limitations, obstacles, risks:**
   - Identifying threats from possible allies
   - Exploring security threats posed by criminal elements
   - Checking dangerous assumptions which could threaten the success of the project
4. **Consider how to implement a human rights based approach to trafficking:**
   - Ensure that human rights (and where working with children, children's best interests) are placed at the centre of all objectives and activities
   - Include participatory strategies which enable people vulnerable to human trafficking to be a part of the decision-making process and help them achieve their own rights
   - Consider different needs of different groups to avoid discrimination

Strategy checklist

1. **Develop a project strategy.** Based on the preparatory steps taken,
   - Decide which stages of trafficking your project will focus on
   - Develop strategies to address those stages chosen
   - Select a combination of different strategies which reflect the complexity of the problem you are seeking to address
2. **Set realistic targets for the number of people to be reached by the project.**
3. **Consider how activities contribute to strengthening the capacity of locally based actors to respond to trafficking in persons.**
4. **Use the following to check if the strategies selected are suitable:**
   - Lessons learned from previous initiatives on trafficking
   - Consideration of the programme logic—are activities you are planning likely to bring about the change you are seeking?
   - Consultations with key stakeholders, including other organizations working on trafficking

Source: Adapted from *Handbook on Planning Projects to Prevent Child Trafficking,* 2007, Mike Dottridge, for Terre des Hommes, pp. 40 and 58, available at:

http://tdh-childprotection.org/index.php?option=com_doclib&task=showdoc&docid=471

AWARENESS-RAISING

Tool 9.8 Awareness-raising measures

Overview

This tool examines various methods of prevention through public education, information and awareness-raising campaigns.

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.

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 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 the awareness of other relevant target groups, including policymakers, law enforcement officers and other relevant professionals such as medical, social service and employment officials, and the private sector, of 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 the 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, which forces them to turn to third parties for help to 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 should provide potential victims of trafficking with sufficient information about the risks of human trafficking, the possibilities for migrating legally in order 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. Other messages to be conveyed are vigilance and public accountability (taking action when trafficking is detected), information about anti-trafficking programmes and criminal penalties for trafficking.

Promising practice

Global television campaign on human trafficking (United Nations Office on Drugs and Crime)

The UNODC 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 of the campaign 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, 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 co-operation 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 the UNODC 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 distributing the new public service announcements to add at the end of each spot a telephone hotline—where one is available—where victims will be able to receive assistance and support.

While the first and second video spots chiefly target potential victims in States of origin, the third and fourth spots target female victims and the general public in destination States. All four spots also target Government officials involved in developing and implementing anti-trafficking and victim protection legislation.

To view the video spots, visit:

www.unodc.org/unodc/en/multimedia.html

These and other video spots can also be viewed at:

http://ungift.org/

"Open Your Eyes" poster campaign (Pentameter 2, United Kingdom)

In the United Kingdom, as part of the police-led Pentameter 2 operation, an active "Don't close your eyes to human trafficking" campaign has been initiated to raise public awareness about trafficking and empower people to report concerns to the police. Posters are being distributed by the police and other Pentameter 2 partners across the United Kingdom. In the first phase of the operation—Pentameter 1—targeted awareness-raising measures were also taken. Leaflets were produced and distributed at airports to raise awareness among men travelling to the World Cup in a bid to reduce demand for paid sex (which could potentially involve the use of trafficked victims) and the official England fanzine was also used as a medium to raise awareness of trafficking in persons.

For more information about the Pentameter 2 law enforcement response to trafficking, see Tool 5.4 and visit:

www.pentameter.police.uk

"Save our Sisters" information campaign (India)

Publicity and endorsement are two highly effective ways to sell anything, including solutions to a problem. 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, a 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 campaign culminated in a national-level consultation to strengthen bonds and lay the foundation for a more active network spanning India.

"Human Trafficking in the 21st Century" poster competition (IOM Russian Federation)

As part of an European Union-funded information campaign on prevention of human trafficking in the Russian Federation, a poster contest is being held to raise awareness, particularly among young people, of human trafficking in the Russian Federation and emphasize its dangers. In each of the three project areas (the Moscow region, the Republic of Karelia and the Astrakhan region), an official jury will select the three most creative entries and the winners will be awarded monetary prizes. The three winners from each of the three regions will enter into a final round selection. Monetary prizes will be awarded to the top three entrants and the winner's poster will be printed and distributed during IOM informational campaigns on prevention of human trafficking in the Russian Federation. Exhibitions of the best contest entries will be organized by the participating regions.

For further information, see:
http://no2slavery.ru/eng/poster_contest/

Meena Communication Initiative (Regional Office for South Asia of the United Nations Children's Fund)

UNICEF developed the Meena Communication Initiative as a mass communication project aimed at changing perceptions and behaviour that hamper the survival, protection and development of girls in South Asia.

Meena is a brave, spirited nine-year-old cartoon character from South Asia. Meena is widely recognized in South Asian countries. Her name is one that is culturally suitable throughout the region and the characters who surround her in her quests to tackle issues that affect children have all been researched extensively. Meena's adventures take her through issues of education, health, gender equality, freedom from exploitation and abuse. In her adventures, she has tackled issues such as stigma surrounding HIV/AIDS, has helped her cousin avoid marriage before the legal age, saved a baby from diarrhoea and found a way to stay in school. Among the range of Meena comic books and films is one aimed at raising awareness about trafficking and sexual exploitation of girls, entitled *The Girls Came Back*.

Meena has been incorporated in the school curricula of Bangladesh and, along with her brother Raju, she is an Ambassador for Children's Rights in Pakistan. In India, Meena features on State-owned radio and television channels and Meena Cabinets of school-aged girls are being established throughout the country. In Nepal, Meena is used to initiate discussion on development, health and gender issues. In Bhutan, Meena postage stamps and posters have been developed in collaboration with Bhutan Post. Child rights education and mine risk education programmes in Sri Lanka use Meena as a role model for children.

Television episodes of Meena have also been aired in Cambodia, the Lao People's Democratic Republic and Viet Nam, dubbed into local languages.

More information about the Meena Communication Initiative is available at:

www.unicef.org/rosa/media_2479.htm

Awareness-raising in Burkina Faso (UNODC Regional Office for West and Central Africa)

As part of the implementation of a project entitled "Measures to prevent and combat trafficking in human beings in the Western African subregion", local-level awareness-raising campaigns were carried out in September and October 2006 in 16 provinces of Burkina Faso. Pep-talks, radio spots and theatre forums were used to sensitize local populations to the issue of trafficking in persons and the methodology of criminal networks. The messages touched on the issues of the national legal framework, the impact of human trafficking on victims and their families, health and psychological issues, and the notion of "exploitation".

- Pep-talks: 100 pep-talks were organized in the 16 provinces, during which audience members could ask questions of facilitators on trafficking issues. The Direction de la protection de l'enfant et de l'adolescent (DPEA) reported that 6,839 people participated in this activity
- Radio spots: fourteen radio shows were organized in 10 provinces in three languages, to disseminate information on trafficking. DPEA estimated that these radio spots reached 800,000 people
- Theatre forums: theatre performances consisting of a play describing the trafficking situation, followed by discussions between facilitators and audience members, were organized in 16 provinces. DPEA reported that 4,354 persons attended these theatre events.

Awareness-raising in Colombia (United Nations Office on Drugs and Crime, Colombia)

The UN 21 Awards were established by the then Secretary-General of the United Nations, Kofi Annan, in 1996 to provide recognition to staff members for innovation, efficiency and excellence in the delivery of the Organization's programmes and services. UNODC Colombia received a UN 21 commendation for its anti-human trafficking activities in 2006, which included helping Colombian television to produce a prime-time television soap opera about human trafficking. The soap opera was seen nightly by millions of viewers and sensitized them to the methods used by traffickers, and where victims could seek help.

Awareness-raising in the Upper Mekong subregion (United Nations Educational, Scientific and Cultural Organization, Bangkok)

UNESCO has developed the following methodology for producing radio programmes in minority languages to educate target audiences on issues of HIV/AIDS, drugs and human trafficking.

1. The programme takes the shape of a dramatic soap opera, with a local heroine facing a wide range of experiences. Soap operas are generally well known and liked by the audience. This form of communication tends to be better accepted by teenagers and youths who would reject traditional pedagogic methods.

2. The content of the programme is based on actual experience. Real-life stories are collected through participatory group discussion (focus groups) at the village level and integrated into the script so that the listeners can identify with the soap opera characters.

3. The script is composed directly in the selected minority language by local minority writers to ensure it is culturally as well as linguistically acceptable to the audience.

4. The script is translated into English and into the national language to check its scientific accuracy.

5. Local musicians compose traditional local music and songs in the minority language which underline the themes of the story.

6. The programme is tested in order to verify that an appropriate and efficient message is conveyed.

7. The programme is broadcast.

8. Selective follow-up audience research is conducted in villages to evaluate how appropriate the broadcasting timing is, as well as the understanding of the programme and the impact of the message.

9. The script, tapes and related output of the programmes are packaged and distributed for further pedagogical and educational use and future rebroadcasting.

10. The programme is proposed to radio stations in other countries of the region where the minority is present. The script and format may be adapted to suit the needs of the radio station or local community.

An example of the awareness-raising work of UNESCO using this methodology is the drama "Life of tragedies", written in the Jingpo language, which won first prize at the fifth Provincial Literary and Artistic Creation Awards held in Yunnan, China. This radio drama was written by a renowned Jingpo author, Yue Jian. Financial support for this programme was provided to UNESCO by the Asian Development Bank. "Life of tragedies" was both broadcast on radio and distributed on cassette and CD. Another radio drama "The sight of the snow mountain", in the Naxi language, addresses the issues of HIV/AIDS and human trafficking. In conjunction with its radio programme work, UNESCO (in cooperation with the New Life Centre Foundation in Chiang Mai, Thailand) has also produced an album of popular Lahu songs addressing issues of HIV/AIDS and human trafficking, sung by Lahu singers popular in Thailand and Myanmar.

More information about the awareness-raising efforts of UNESCO Bangkok is available at:

www.unescobkk.org/index.php?id=1020

Southern African Counter-Trafficking Assistance Programme (IOM Southern Africa)

Using print campaigns, film and television initiatives, radio dramas, theatre performances and media coverage, IOM disseminates information targeting vulnerable and trafficked persons, law enforcement and Government officials and the public, as well as users of the services of trafficked persons. Campaigns in the source countries of Southern Africa are aimed at preventing vulnerable persons from becoming victims of trafficking, while in South Africa, campaign activities aim to raise awareness of the 24-hour helpline 0800 555 999, established in 2004. An example of the latter was the use by IOM of the popular South African soccer team, the Kaizer Chiefs, to promote the helpline number by wearing t-shirts that bore a counter-trafficking message and the helpline number during their warm-up prior to a Premier Soccer League match.

More information about IOM counter-trafficking awareness-raising campaigns can be found at:

www.iom.org.za/CTInformationCampaign.html

Awareness-raising in Costa Rica (United Nations Interregional Crime and Justice Research Institute)

Within the framework of the programme of action against trafficking in minors for sexual purposes, the United Nations Interregional Crime and Justice Research Institute designed a series of materials to raise awareness concerning trafficking among adolescents in Costa Rica, including:

- The spot "Protegiendoles", aired on prime-time television on all major channels for two months. A radio spot complementing the television spot was aired for three months by nine radio stations, reaching remote areas of the country
- Billboards placed at strategic points on the border between Costa Rica and Panama to inform about and deter the trafficking of children for sexual exploitation
- Fourteen movable billboards circulated on buses for four months in areas identified by the project as the routes most vulnerable to trafficking
- A bookmark targeted at at-risk populations was handed to adolescents when the passport office issued their travel documentation
- A set of three different stickers was posted in windows of immigration offices

To see the awareness-raising materials, visit:

www.unicri.it/wwd/trafficking/minors/activities_costarica.php

Awareness-raising in Ukraine
(United Nations Interregional Crime and Justice Research Institute)

In the framework of its programme of action against trafficking in minors for sexual purposes, UNICRI designed a series of materials to raise awareness of the problem in Ukraine, including:

- A brochure, *Prevent and Help*, disseminated during training sessions and at round tables, advertising also the National Hotline on Trafficking number
- A booklet, *Measures to Counteract Child Trafficking and Commercial Sexual Exploitation of Children in Ukraine* (international and national legislation), targeted to specialists working in the sphere of children's rights protection, which was published and widely disseminated
- A video spot, *No! It must not happen . . .* , with promotional material about the National Hotline on Trafficking and the issues of trafficking in children and commercial sexual exploitation, which was broadcast on national and regional television channels and on monitors on the underground railway.

To see the awareness-raising materials, visit:
www.unicri.it/wwd/trafficking/minors/activities_ukraine.php

Awareness-raising in Nigeria
(United Nations Interregional Crime and Justice Research Institute)

In the framework of the programme of action against trafficking in young women and minors from Nigeria into Italy for the purpose of sexual exploitation, implemented by the United Nations Interregional Crime and Justice Research Institute in collaboration with UNODC, three awareness-raising campaigns have been carried out in Edo State, Nigeria. The first was intended to reach parents, traditional chiefs and priests, the second rural villages and the third children. The campaigns included radio jingles in local languages, widespread market campaigns, enlightening talks with youth, women and men, and advocacy with traditional rulers and religious leaders, as well as meetings, seminars and workshops on critical issues relating to trafficking.

To see the awareness-raising materials, visit:
www.unicri.it/wwd/trafficking/nigeria/awareness.php

Tool 9.9 Awareness-raising campaign checklist

Overview

When planning a public information campaign, goals, aims, measurable objectives, target groups and settings, key messages, materials and actions, monitoring and evaluation should all be considered. This tool offers some guidelines and a check-list to provide a starting point.

Setting up a campaign

ECPAT International offers guidelines for non-governmental organizations that are setting up an awareness-raising campaign. The guidelines specifically concern the efforts of the organization Protecting Environment and Children Everywhere (PEACE), the national representative of ECPAT in Sri Lanka, to combat the commercial sexual exploitation of children, but they are also applicable to trafficking issues.

1. Make use of the moment

- Capture relevant moments

  Support is ideally sought when issues become topical and receive lots of media attention

- Have a strategy ready

  Have a strategic plan of action for such moments so you can take advantage of them

2. Create the right conditions for actions

- Raise awareness of the issue

  Don't assume that the issue will stay topical for long. Create awareness at different levels; grass-roots, public sector, private sector and Government

- Try to make the issue "official"

  Get official recognition for the problem by discussing the issue with relevant ministries and work towards joint ownership of the problem to increase the chances of governmental support

3. Define the proper "core message"

- Identify your public

  The message you present and how you present it depends on who you hope to influence. Which community would be most influential in solving the problem? How can you best reach them?

- Design the message

  The message needs to highlight the effects of the issue on the particular target audience.

4. Make good use of the media

- By becoming a source of information to the media, you are able to reach a larger audience, become better known and trusted by the public, have some control over the type of news released and counterbalance inaccurate opinions with reasoned response

5. Make use of international support and pressure

- Share problems and experiences

  The issue you are addressing will have been experienced in some form elsewhere in the world; remember to look outside for help

- Join a global network

  Establish and maintain contact with international organizations prepared to help, experienced personnel in other countries who can guide progress and donors willing to provide assistance

- Use international pressure

  Not every Government is receptive to initiatives from non-governmental organizations

  - Direct pressure can be applied by international organizations contacting your Government through appropriate channels to express the international community's concern about the situation
  - Indirect pressure is applied where the relevant country is mentioned at international conferences or in foreign media in relation to the issue at the centre of your campaign

6. Set up a local network

- Use all the resources available

  International organizations are more likely to become involved with your campaign if other sectors and groups are represented. Your network could include non-governmental organizations working in related fields, foreign-based organizations with a presence in your country, members of the private sector, Government agencies, individuals and representatives of the media.

Source: ECPAT International guidelines, *Setting up a Campaign* (PEACE, Sri Lanka) available at:

www.ecpat.net/eng/CSEC/good_practices/index.asp

Campaign checklist

Does the campaign include?

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?

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; the campaign checklist is available at:

http://data.unaids.org/WAC/in_waccampaignguide_04_en.pdf

Tool 9.10 Designing a communication strategy

Overview

This tool provides a checklist for designing a communication strategy.

ECPAT International offers guidelines on designing an effective communication strategy. Although offered in the context of communicating information about child sex tourism, these guidelines offer valuable advice for designing a communication strategy regarding trafficking in persons.

Plan your communication strategy

- Evaluate the context

  What is the problem?

- Identify the needs

  When you have knowledge of the problem, identify and prioritize needs for action

- Assess your capacities

  Make a list of the resources you have:

  - Financial resources (funds you have and fund-raising capacity)

  - Human resources (special skills, experience, relevant contacts)
  - Partners (local, national, international, Government, private sector)
  - Technical resources (material, equipment, documents)
  - Location (time and place are importance factors in determining action)
  - Relationship with donors

  By matching the needs and your resources, you can identify your priorities

- Set specific goals

  Within the framework of preventing trafficking in persons, your specific objective/s should be identified

  Once you have set your objectives, plan how to reach them with strategic planning of the communication:
  - Objective
  - Audience
  - Message
  - Media

Select your audience

- Several target groups

  Different target audiences have different specifications which need to be targeted differently

- Understand your target group

  You need to know your target group in order to reach it in the most effective way. Understand how the group functions, how it is organized, etc.

- Cooperate with/involve your target group

  Work with your target group—messages can be better accepted when they are transmitted by peers

Your message

- Awareness-raising

  Provide basic information on the issue so that your audience:
  - Is aware that the problem exists
  - Acquires general knowledge about the issue
  - Finds some relevance to itself; your audience should understand how the issue relates to them
  - Knows what is being done, and what can be done to prevent it

  To define your message, put your audience first; information should be designed for them

  The message must be clear, precise and relevant to your audience

- Stimulate your audience to act

Your message should not present an insurmountable problem; rather, your message should:

- Present the role and responsibilities of your audience target group
- Suggest answers to their question—what can we do?
- Make practical recommendations

Appropriate media should be selected for appropriate messages

- Lobbying

  Your message must be based on reliable facts and should target a specific problem. If you do not present positive and clear propositions, your message is useless and your credibility is lost

  The way your message is perceived depends on how it is conveyed—consider your audience

Media

The choice of medium must be adapted to the goal you have set, the message, the audience and your resources.

- Direct communication

  Direct personal contact with your audience can be time-consuming and limited in terms of scope, but can also be effective to address the problem

- Use of mass media: newspapers, radio, television and the Internet reach a large audience

  Facts that the mass media release themselves

  - Interviews, reports on your activities, videos produced on the issue, documentation circulated on the web. Your message should be carefully prepared to be sharp and straightforward. Real examples and case studies stimulate interest

  Presentation of your own material

  - You can present material you have produced to the media. Always have some material printed, displayed or ready to be screened so as not to miss an opportunity to raise the issue
  - You could prepare information packs for journalists, containing carefully selected relevant information about the issue, your organization and a press release (your message to the press)

Produce your own material

Producing your own material can let you control the message, format the message and the information you want to convey, decide how it will have the most impact on your target audience and decide how to reach your target group.

- Print media

  Print media are most frequently used; they offer a range of materials, allow detailed accurate information and imply more active participation of your audience as they have to read the text

Long text is not always read by everyone: combine a short striking message with longer detailed text

Print media can be in the form of leaflets, brochures, posters, billboards, advertisement pages, inserts, reports, drawings, stickers, luggage-tags, comics, knob-hangers etc.

- Visual media (all visual media require careful ethical use; obtain consent before using images of people)

  Video is a flexible medium for messages but is costly, passive in terms of audience and requires an efficient channel of distribution (or it may be seen by very few people). Videos can be screened through various channels of communication and in different places; television, cinema, on flights, on means of transportation such as buses and boats, in public places, airports, hospitals, agencies, exhibitions, hotel lounges, etc.

  Photos can support a message but cannot be used on their own without explanation

- Other communication media to consider are drama, music, movies, petitions and new technologies such as the Internet and e-mail
- Diversify

  Combine several media formats to increase the chances of reaching your audience. Repetition and continuity will support the effort and help the audience memorize and understand the message

Pilot

Communication strategies must consider the variables and the communication must be tested. Testing can be small-scale, as long as it is representative of the target audience and the conditions of dissemination of the message

- Test the message: what is being said?

  Does your audience understand the message properly? Do they remember it? Do they agree? Do they feel concerned? What reaction does it produce from them? Is this what you expected?

- Test the medium: is it relevant to them?
- Test the channel: is it the best way to reach them?

Review your communication strategy on the basis of feedback and comments to match it as closely as possible to your audience requirements and re-test it until you are satisfied.

Monitoring/evaluation

- Monitoring is based on guidelines you set out leading to your objective and must be included in your strategy from the outset. It takes place throughout the campaign and will be repeated after a certain time
- Evaluation is planned before the campaign starts. There are two types of evaluation that should be combined:

Qualitative: assess what people know about trafficking, how they perceive it and what they feel about it. This could be done through questionnaires handed out to representative groups

Quantitative: set quantifiable indicators of your audience, of your objectives (i.e. percentage of the potential target reached, percentage of the population, number of airings, number of pamphlets distributed).

Source: The above strategy has been derived from ECPAT International's guidelines *Designing a Communication Strategy: the Achievements of ECPAT Italy's Campaign,* available at:

www.ecpat.net/eng/CSEC/good_practices/index.asp

Tool 9.11 Rapid response: prevention during emergencies

Overview

This tool offers guidance on protecting vulnerable people from trafficking during crises, such as conflict or natural disaster.

Guidelines for protecting children during emergencies

UNICEF notes that in large-scale emergencies where it will be difficult to establish guardianship arrangements for individual children, the rights and best interests of children should be safeguarded and promoted by States and organizations working on behalf of children. Various actions are vital to contain the risk of children becoming victims of trafficking:

1. Conduct a rapid assessment of the situation of children. Within the appropriate mechanisms, monitor, advocate against, report and communicate on severe and systematic abuse, violence and exploitation.

2. Assist to prevent the separation of children from caregivers and facilitate the identification, registration and medical screening of separated children, particularly those under five years of age and adolescent girls. Governments should identify officers in charge of child protection in all major hospitals admitting child patients and in temporary camps.

3. Ensure that family-tracing systems are implemented, with appropriate care and protection facilities.

4. Interim care must be provided to separated children until they are reunited with their families, placed in foster care, or other long-term care arrangements have

been made. Interim care should be consistent with the aim of family reunification, balanced with a best interests assessment, and should ensure children's protection and well-being.

5. Promote the child's recovery by providing psychosocial support to strengthen resilience, as well as meeting basic needs.

6. Establish procedures to ensure that children who are travelling during emergencies are with their parents or other primary caregivers. The Government can put a temporary moratorium on the adoption of children until all children can be properly identified and the process of family tracing is completed.

The international standard in a crisis is to keep children as close to their family members and community as possible. Staying with relatives in extended family units is generally a better solution than uprooting the child completely.

Child trafficking, sexual exploitation and extreme forms of child labour may be nothing new in the region affected by disaster and/or conflict. But the breakdown of institutions leaves an opening for unscrupulous and criminal exploitation of the most vulnerable. A quick response must be made by Governments to this threat in order to provide that protection.

Source: Committee on the Rights of the Child, General Comment No. 6 (2005); UNICEF, *Emergency Field Handbook*, 2005. Printed in UNICEF, *Guidelines on the Protection of Child Victims of Trafficking*, September 2006, available at:

www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

Recommended measures to protect children during natural disasters

During times of natural disaster or conflict, children are particularly vulnerable to trafficking. Action plans to reduce the likelihood of child trafficking need to be immediately implemented.

UNICEF recommended the following five steps in response to the tsunami crisis:

1. **Register all displaced children**. Identify those who are unaccompanied, separated from their parents or caregivers or possibly orphaned, and know their exact location.

2. **Provide immediate safe care**. Children identified as unaccompanied or separated must be placed in the temporary care of adults who are accountable for the children's welfare. Their care and protection should be carefully monitored so they are not susceptible to further risk.

3. **Locate relatives**. Trace and reunite family members who have been separated during the chaos.

4. **Alert police and other authorities**. It is essential to educate police, border patrols, teachers, health workers and others to the threat of child exploitation and to enlist their support in protecting children.

5. **Take special national measures**. Temporary restrictions on children's movement may be necessary to thwart trafficking that could occur under the radar.

Source: Inter-Parliamentary Union and UNICEF, *Combating Child Trafficking,* Handbook for Parliamentarians, No. 9, 2005, available at: www.unicef.org/protection/files/child_trafficking_handbook.pdf

Promising practice

Action by the Government of Indonesia after the tsunami

After the tsunami, the Government of Indonesia was concerned about the possibility of child trafficking from affected areas. In response, it imposed a moratorium on international adoption of children from Aceh. Children under 16 were not allowed to leave the country without a parent. Surveillance was increased at airports and seaports in North Sumatra and Aceh until all children were properly identified and family tracing could be undertaken. The Government of Indonesia acted quickly to alert non-governmental organization partners in affected countries, warning them of the potential for trafficking of vulnerable children and asking them to diffuse this alert among relief workers and other relevant partners in Asia.

Counter-trafficking response of the International Organization for Migration to the tsunami in Aceh, Indonesia

IOM engaged the help of Rafly, Aceh's best-known musician, to help raise awareness about the dangers of human trafficking as part of a mass information campaign linked to Ramadan. Rafly produced public service announcements that were broadcast in both Bahasa Indonesia and Bahasa Aceh up to 35 times a day over two months, through seven radio stations. Additionally, IOM and Himpunan Ulama Dayah (Union of the Heads of Islamic Boarding Schools) developed scripts for Koranic monologues, read by religious leaders on radio, discussing safe migration, the risk of human trafficking and preventive measures from an Islamic perspective.

Counter-trafficking response of the International Organization for Migration to the tsunami in Nias, Indonesia

Nias is a predominantly Christian island off the coast of North Sumatra in Indonesia. IOM, in collaboration with the Centre for Study and Child Protection (PKPA), a non-governmental organization, designed information campaign materials, including stickers, leaflets, posters and radio public-service announcements, appropriate to the culture of Nias. Furthermore, IOM in collaboration with PKPA organized a workshop on mapping human trafficking in Nias. The workshop was attended by community and religious leaders as well as Government officials and representatives of civil society organizations. The workshop identified trafficking

issues specific to Nias and selected agencies to act as the clearing-house for trafficking-related information, provide referrals when assistance was needed and formulate a plan of action to combat trafficking on the island.

United Nations Office on Drugs and Crime, Lebanon

In Lebanon there are more than 300,000 domestic workers originating from Asia and Africa, primarily Sri Lanka, Ethiopia and the Philippines. Even prior to the conflict in 2006 there were clear indications that many domestic workers were the victims of exploitation, criminal networks and human trafficking. As a result of the humanitarian crisis in Lebanon, many domestic workers ran away or were left behind by their employers, leaving them more vulnerable to trafficking. It is estimated that after the conflict some 24,000 domestic workers were evacuated.

Through its technical cooperation project "Measures to prevent and combat trafficking in Lebanon", UNODC supported an awareness campaign targeting in particular domestic workers from Sri Lanka, Ethiopia and the Philippines to inform them about the risks of human trafficking. In close cooperation with the Government of Lebanon and the non-governmental organization Caritas Migrant Center (which operates a helpline for trafficking victims), UNODC prepared awareness-raising materials to distribute to shelters, embassies, churches, shops and markets.

The text for the awareness campaign was prepared in coordination with a local focus group and translated into three languages. Rather than using posters and leaflets, the message and hotline numbers were printed on bloc-notes which targeted beneficiaries were easily able to take with them. Through the UNODC juvenile justice project, young delinquents in a Beirut prison were involved in the finalization of the material, illustrating a positive example of synergies between projects.

DISCOURAGING DEMAND

Tool 9.12 Defining the concept of demand

Overview

This tool considers what "demand" means with respect to human trafficking.

What do we mean when we talk about demand in relation to trafficking?

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 these factors in a multifaceted way.

There is no agreed definition of the term "demand". It usually refers to the desire for a particular commodity, labour or service, but in the context of human trafficking, the demand is for labour that is exploitative or services which breach the human rights of the person delivering those services.

In practice, it is often difficult to differentiate between demand for labour and services which are legal and acceptable (and a natural element of productive markets) and those that are not. The employer of labour or the consumer of services may not be aware that the labour or services are being provided by a person who has been trafficked.

This means that analysis of demand for trafficked persons is best undertaken in the context of a wider analysis of certain types of labour or services, in which trafficked persons could be exploited.

Evidence indicates three levels of demand related to human trafficking:

- Employer demand (employers, owners, managers or subcontractors)
- Consumer demand clients (in the sex industry), corporate buyers (in manufacturing), household members (in domestic work)
- Third parties involved in the process (recruiters, agents, transporters and others who participate knowingly in the movement of persons for the purposes of exploitation)

The "demand side" of trafficking generally refers to the nature and extent of the exploitation of the trafficked persons after their arrival at the point of destination, as well as the social, cultural, political, economic, legal and developmental factors that shape the demand and facilitate the trafficking process.

Source: Demand Side of Human trafficking in Asia: Empirical Findings (Bangkok, International Labour Office, 2006), available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16a.htm

Article 9, paragraph 5, of the Trafficking in Persons Protocol

Prevention of Trafficking in Persons

As briefly discussed in Tool 9.1, to merely address factors on the supply side of trafficking is to neglect half of the trafficking process. Article 9, paragraph 5, of the Trafficking in Persons Protocol highlights the need to address the demand for labour and services delivered by trafficked people:

> 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.

The text of the Organized Crime Convention and the Protocols thereto can be found at:

www.unodc.org/unodc/en/treaties/CTOC/index.html

Recommended Principles and Guidelines on Human Rights and Human Trafficking

(E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

Principle 4 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights states: "Strategies aimed at preventing trafficking shall address demand as a root cause of trafficking".

Guideline 7 of the same document (provided in full in Tool 9.1) states in paragraph 1 that States should consider "analysing the factors that generate demand for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues".

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Brussels Declaration on Preventing and Combating Trafficking in Human Beings

The Brussels Declaration was made at the European Conference on Preventing and Combating Trafficking in Human Beings—Global Challenge for the 21st Century, held in September 2002. Annexed to the Declaration are "Recommendations, standards and best practices". In this annex, under the heading "Prevention of trafficking in human beings", section 7, Root causes, states that:

> It should be an essential and common goal for the fight against trafficking to address the reduction of the demand for sexual services and cheap labour. This includes

education to equal and respectful relationships between sexes, and awareness campaigns especially targeting clients.

Section 8, Research, states that:

A crucial component in the comprehensive counter-trafficking response will be the further research and analysis of the "demand" side of the trafficking process and an examination of methods by which the demand of clients can be effectively reduced.

Section 10, Awareness-raising, states that:

Awareness-raising campaigns aiming at the "demand" side of the trafficking process should be developed as part of a comprehensive process of reducing trafficking effectively.

The Brussels Declaration on Preventing and Combating Trafficking in Human Beings is available at:

http://register.consilium.eu.int/pdf/en/02/st14/14981en2.pdf

OSCE Action Plan to Combat Trafficking in Human Beings

In its Action Plan to Combat Trafficking in Human Beings, OSCE recommends action at the national level to prevent trafficking, including:

1. Data collection and research

1.3 Conducting more far-reaching analysis of the root causes of trafficking in human beings, its demand and supply factors, its networks and its economic consequences, and its link with illegal migration

3. Economic and social policies aimed at addressing root causes of trafficking in human beings

3.2 In countries of destination:

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;

3.3 Whether in countries of origin or countries of destination:

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.

4. Awareness-raising

4.10 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.

Source: The Action Plan is annexed to OSCE Permanent Council decision No. 557/Rev.1 and can be consulted at:

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

OSCE Alliance statement on demand

The following is an extract from a statement presented by La Strada International on behalf of the Alliance Expert Coordination Team on 3 October 2006 with reference to the Human Dimension Implementation Meeting Special Day on Trafficking:

In the debate on the demand side of trafficking, the Alliance calls upon States, intergovernmental organizations, non-governmental organizations, labour unions and the private sector to:

- Broaden the awareness, attention and research into all forms of forced labour and exploitation, whether as a result of internal or international trafficking, and the factors that underpin its demand
- Tackle the problem of unprotected, informal and often illegal labour which leads to violations of the rights of migrant workers and fosters trafficking and exploitation
- Support the organization/unionization of migrant workers/trafficked persons to enable them to better protect their rights
- Ensure that informal and unregulated work activities are brought within the protection of labour laws to ensure that all workers enjoy the same labour rights
- Collect information and address all exploitative and hazardous forms of child labour in conformity with the ILO Convention on the Worst Forms of Child Labour and design strategic responses in line with the Convention on the Rights of the Child
- Encourage the creation of ethical employer associations which will adhere to codes of conduct that ensure protection of the rights of their workers
- Develop public awareness campaigns on products and services that are produced by exploitative and forced labour and develop guidance to assist consumers in identifying goods or services that have not been produced through exploitation
- Sign and ratify the Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and the Council of Europe's Convention on Action against Trafficking in Human Beings
- Engage in public awareness campaigns focusing on acceptance of migrants and their families to reduce discrimination and stigmatization of migrant workers.

On behalf of the Alliance Expert Coordination Team:

OSCE Office on Democratic Institutions and Human Rights, OHCHR, UNDP, UNICEF, United Nations Development Fund for Women (UNIFEM), ILO, IOM,

International Federation of Red Cross and Red Crescent Societies, ICMPD, Europol, INTERPOL, Dutch National Rapporteur, Nexus Institute, ACTA, Anti-Slavery International, ECPAT, La Strada International, International Federation of Terre des Hommes, Save the Children, Amnesty International.

The complete statement of the Alliance and more information about the approach to demand reduction adopted by the OSCE Office for Democratic Institutions and Human Rights is available at:

www.osce.org/item/22263.html

Promising practice

Camel jockeys in the United Arab Emirates

For many years, young boys have been trafficked, primarily from Bangladesh, Pakistan and the Sudan, to serve as camel jockeys in the United Arab Emirates. After years of campaigning by Governments, international organizations and non-governmental organizations, a particularly innovative approach to curtail demand emerged in 2005. In light of legislation banning the use of young boys, camel owners started using remote-control operated robots of comparable size to the young boys formerly used.

More information on this issue is available at:

www.ansarburney.org/human_trafficking-children-jockeys.html

For the perspective of Anti-Slavery International on the response of the United Arab Emirates, visit:

www.antislavery.org/archive/briefingpapers/ilo2006uae_camel jockeys.pdf

Discouraging demand for forced labour in Brazil

Legal initiatives in Brazil have included several measures to address forced labour. In 2006, a regulation was issued requiring State financial institutions to bar financial services to entities listed in the Ministry of Labour's "dirty list", which contains the names of persons and companies documented as users of forced labour.

Croatia

The Criminal Code of Croatia was amended in October 2004 to criminalize trafficking, the definition of which goes beyond that provided in the Trafficking in Persons Protocol to not only penalize traffickers, but also clients of trafficked persons if the clients knew the persons had been trafficked.

Recommended resources

Demand Side of Human Trafficking in Asia: Empirical Findings (ILO, 2006), available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16a.htm

The Mekong Challenge—Human Trafficking: Redefining Demand (ILO, 2005), available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16a.htm

Tool 9.13 Commercial sexual exploitation of children

Overview

This tool looks at legislative and other measures, such as ethical guidelines and campaigns, that can be implemented in order to discourage the demand for trafficked persons by addressing the problem of sexual exploitation.

It is known that thousands of tourists and businessmen who travel internationally engage in sex, including with children, or make pornographic material. 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 effort to combat child prostitution in developing countries concentrates on abuses committed by foreigners, for two reasons: the economic and social power of the foreign exploiter far exceeds that of the child; and the foreign exploiter can easily leave and avoid prosecution.

In response to the latter situation, many States have resorted to an extraterritorial jurisdiction over offences relating to the sexual exploitation of children committed by their nationals in other countries.

For more information visit:
www.humantrafficking.org

Promising practice

Legislation

Violent Crime Control and Law Enforcement Act of 1994 (United States)

Under the Crime Act it is illegal for United States citizens to travel abroad with intent to engage in any sexual act with a person under 18 years of age. The penalty for doing so is 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 citizen or resident of the United Kingdom, a criminal offence punishable in the United Kingdom. It is also an offence to plan to travel overseas for sex with children.

Crimestoppers hotline (United Kingdom)

The United Kingdom Home Office provides a free "Crimestoppers" hotline for use by British tourists in Gambia to report child abuse abroad. Awareness-raising information about child prostitution was distributed to tourists by travel companies, informing tourists what to be alert to.

House Bill 2020/Act 82 (Hawaii, United States)

The Hawaii state legislature passed House Bill 2020 into law as Act 82 in May 2004, making the promotion of travel for the purpose of prostitution a felony and grounds for revoking the licence of an offending travel agent.

The full text of House Bill 2020 is available at:
www.capitol.hawaii.gov/session2004/bills/HB2020_cd1_.htm

Crimes (Child Sex Tourism) Amendment Act 1994 (Australia)

The Crimes (Child Sex Tourism) Amendment Act 1994 came into force in July 1994. This Act criminalizes in Australia any sexual activity with a child under the age of 16 years committed in an overseas country by an Australian citizen or Australian resident. This law applies to individuals, companies or corporations and provides for a term of imprisonment of up to 17 years and fines of up to 500,000 Australian dollars. The Act also makes it an offence to encourage, benefit or profit from any activity that promotes sexual activity with children.

This Act and other laws of the Commonwealth of Australia can be found at:

www.comlaw.gov.au/comlaw/comlaw.nsf/sh/homepage

Codes and Commitments

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 joint initiative of the tourism private sector and the children's rights non-governmental organization ECPAT International, aimed at preventing sexual exploitation of children at tourism destinations. The code originated from an ECPAT project, funded by UNICEF and supported by the World Tourism Organization.

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

The Code and further information about it are available at:

www.thecode.org

Regional Commitment and Action Plan of the East Asia and Pacific Region against Commercial Sexual Exploitation of Children

Representatives of 25 Governments, in cooperation with United Nations agencies, international organizations, non-governmental organizations and representatives of young people, meeting at the East Asia and Pacific Regional Consultation held from 16 to 18 October 2001 in Bangkok in preparation for the Second World Congress against Commercial Sexual Exploitation of Children, committed themselves to taking action against the commercial sexual exploitation of children, including trafficking of children, in the areas of: children/young people's participation; coordination and cooperation; prevention; protection; and recovery and reintegration.

The Regional Commitment and Action Plan is available at:

www.unicef.org/events/yokohama/easia-pac-reg-outcome.html

Projects

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. ECPAT International is a network of organizations and individuals working to eliminate the commercial sexual exploitation of children. Local campaigns highlighting extra-territorial 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. ECPAT International has special consultative status with the Economic and Social Council.

Every year, ECPAT International collaborates with other non-governmental organizations, governments and UNICEF to organize a World Congress against the Sexual Exploitation of Children and Adolescents.

More information about ECPAT is available at:

www.ecpat.net

More information about the World Congress against the Sexual Exploitation of Children and Adolescents is available at:

www.ecpat.net/World_Congress/

Child Sex Tourism Prevention Project

The Child Sex Tourism Prevention Project is a joint effort of 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

For more information, see:
www.worldvision.org/worldvision/wvususfo.nsf/stable/globalissues_stp

ChildSafe (Cambodia)

ChildSafe is an non-governmental organization-operated campaign in Cambodia which brings various actors to the fight against sexual exploitation of children. By eliciting the help of taxi, tuk-tuk and motorcycle taxi drivers, staff of hotels, guesthouses and restaurants, and tourists in Cambodia, ChildSafe creates a network of key people who receive ongoing training in child protection. These persons are able to identify children at risk and suspicious behaviour of tourists in Cambodia so that appropriate action can be taken.

More information about the ChildSafe programme is available at:
www.childsafe-cambodia.org/index.asp

Recommended resource

Combating the Trafficking in Children for Sexual Purposes: a Training Guide

ECPAT International, 2006

Intended for the training of multi-stakeholder groups consisting of law enforcement personnel, social workers and caregivers, this resource provides training guidelines and resource materials, including fact sheets to hand out, on the specific issue of combating trafficking in children for sexual purposes.

This training guide is available at:
www.ecpat.net/eng/pdf/Trafficking_Report.pdf

Distilling Elements of Good Practice: the Action Programme against Trafficking in Minors for Sexual Purposes

ECPAT International, 2007

This publication analyses three examples of successful efforts against trafficking in children:

- An awareness-raising campaign implemented by Paniamor in Costa Rica, as an example of reaching a target audience
- The multi-disciplinary training manual and training sessions on human trafficking developed and implemented by FACE in Thailand as an example of building on existing resources
- La Strada's hotline in Ukraine, as an example of preventing child trafficking and commercial sexual exploitation of children while providing assistance to child survivors

This publication is available at:
www.ecpat.net/eng/pdf/Trafficking%20Action%20Programme.pdf

Toolkit for Implementing and Monitoring the East Asia and Pacific Regional Commitment and Action Plan against Commercial Sexual Exploitation of Children

This toolkit (United Nations publication, Sales No. E.06.II.F.17), compiled in 2006 by the Emerging Social Issues Division of the Economic and Social Commission for Asia and the Pacific of the United Nations, is composed of three chapters:

1. Tools for developing national plans of action against commercial sexual exploitation of children
2. Situational analysis of research into commercial sexual exploitation of children: basic approaches and tools
3. Piloting information on the commercial sexual exploitation of Children: experiences from East Asia

The toolkit provides experience, good practice and practice tools and can serve as a practical reference for key actors seeking to learn from past practice and to adapt lessons to fit their local and national contexts, particularly in the East Asia and Pacific region.

The toolkit is available at:
www.unescap.org/publications/detail.asp?id=1156

Tool 9.14 Proactive prevention strategies: targeting traffickers

Overview

This tool showcases efforts which have been undertaken to profile and deter potential and actual traffickers from exploiting other people.

Most strategies that target traffickers begin at the point where criminal justice becomes relevant: traffickers come into focus when there is a suspicion of trafficking. However, consideration is rarely given to who traffickers were before they became traffickers and the factors that led them there.

For instance, the fact that some traffickers were former victims themselves may be indicative that the factors that make people vulnerable to being trafficked (see Tool 9.2 and Tool 9.3) may also make people vulnerable to becoming traffickers. This, in turn, points to the need for reintegration programmes to take into account that breaking the cycle of trafficking requires not only preventing victims from being retrafficked but also preventing victims from becoming traffickers themselves (for more on reintegration generally, see Chapter 7).

These lacunae in both knowledge about trafficking and responses to it highlight the need to prioritize research and data collection. Currently, information about traffickers—who they are and how they operate—is inadequate to target tailored responses effectively to prevent them from committing their crimes. Detailed data must therefore be collected to strengthen and tailor interventions targeted at traffickers and potential traffickers. For some promising examples of efforts to profile traffickers and collect relevant data, please see Tool 9.15.

Identifying and profiling traffickers

Crime Reduction Toolkit on trafficking of people (United Kingdom)

When available, multi-agency-agreed profiles of traffickers are useful. Immigration and police officers can benefit from access to such profiles for the purpose of entry and exit point detection. In addition to profiles of victims and potential victims, it is useful for there to be profiles of:

- The modus operandi of traffickers
- Traffickers and their accomplices

In achieving such profiles, local intelligence should be recorded and shared with other agencies and, where appropriate, communicated to national agencies.

At the point of interception, many potential victims have only been subjected to deception rather than any form of coercion, and may therefore be unaware that they are at risk of being exploited at the point of entering another country. However, the fact that they are travelling with a known trafficker may mean that they are able to provide useful intelligence.

There may be opportunities for the police to intercept traffickers and victims exiting the country, as well as upon their entry. Profiles and databases for identifying traffickers and victims are equally applicable.

Source: The United Kingdom Home Office Crime Reduction Toolkit on trafficking of people, available at:

www.crimereduction.homeoffice.gov.uk/toolkits/tp0601.htm

Federal Criminal Police Office (Germany)

The Federal Criminal Police Office of Germany released the *Bundeslagebild Menschenhandel 2006* report in August 2007. This report provides details on the gender and nationality of traffickers to facilitate the formulation of prevention strategies targeting traffickers. The Office registered 664 suspects, 77 per cent of whom were male. About 43 per cent of the traffickers were German nationals; 52 per cent had different nationalities at birth (including Romanian, Polish and Bulgarian—countries which are also countries of origin).

Knowing the nationality of traffickers and having information about their nationality at birth could assist in the development of prevention measures targeting potential traffickers.

The report is available (in German only) at:

www.bka.de/lageberichte/mh/2006/mh2006.pdf

Information in English is available at: www.bka.de

Deterring traffickers

National Agency for the Prohibition of Traffic in Persons and Other Related Matters (Nigeria)

On the website of the National Agency for the Prohibition of Traffic in Persons and Other Related Matters of Nigeria, there is the slogan "Children are not farm produce—don't trade them for money", a message clearly directed at traffickers or potential traffickers. The Public Enlightenment Department of the Agency, with the support of IOM and USAID, has produced posters which display this message (and another directed at traffickers and exploiters of children which reads "Children are not created to be slaves—don't treat them like slaves"). The Agency has established a network of women's associations, security agents, non-governmental organizations and other concerned entities in states and local government areas of Nigeria. The network meets regularly to support the grassroots education and intelligence-gathering efforts of the Agency.

More information about the work of the National Agency for the Prohibition of Traffic in Persons and Other Related Matters is available at:

www.naptip.gov.ng

Indian Community Welfare Organisation

The Indian Community Welfare Organisation was established in 1994, primarily to assist marginalized and exploited women in difficult circumstances in India. The main focus of the Organisation has been to work with sex workers and their clients, to prevent the transmission of sexually transmitted diseases (including HIV) among high-risk populations and to prevent the sexual exploitation of children.

In 2007, on the International Day against Drug Abuse and Illicit Trafficking (26 June), the Indian Community Welfare Organisation held an event to encourage pimps and brokers to cease their involvement in trafficking in persons. On this occasion, 10 female pimps and brokers symbolically burned their records of clients, sex workers and people vulnerable to being exploited, as a testament of their commitment to stop trafficking. The pimps and brokers participating in the programme took an oath to affirm this commitment.

More information about the work of the Indian Community Welfare Organisation is available at:

http://icwoindia.org

Tool 9.15 Use of standardized data collection instruments

Overview

This tool presents some examples of standardized research instruments and methodologies.

In the same way that universally accepted and consistently applied definitions of trafficking and smuggling 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 effects 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 on the basis of sound information about the phenomenon, how it evolves and how it is affected or not by various interventions.

Recommended Principles and Guidelines on Human Rights and Human Trafficking

(E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

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 Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Research instruments

As part of a project entitled "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 used with victims of trafficking 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 categories and variables contained in the other research instruments. It covers the following specific topics:

- Victims (their experiences with recruitment and exploitation)
- Offenders (demographic variables and their role within the criminal 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

An executive summary of the report on phase I of the project on coalitions against trafficking in human beings in the Philippines, entitled *Trafficking in Human Beings from the Philippines: Examining the Experiences and Perspectives of Victims and Non-governmental Organizations*, is available at:

www.unodc.org/pdf/crime/human_trafficking/Exec_summary_ISDS.pdf

A report entitled *Rapid Assessment: Human Smuggling and Trafficking from the Philippines* is available at:

www.unodc.org/pdf/crime/trafficking/RA_UNICRI.pdf

Recommended resource

ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons

(IOM and ASEAN)

In this IOM/ASEAN report, published in 2007, the collection of trafficking data in the ASEAN member States of Cambodia, Indonesia, the Philippines and Thailand is examined

with a view to deriving best practices from those efforts and making recommendations for improving their effectiveness and efficiency. Sample questionnaires used to collect data are also provided in the report.

What is data?

The report states: "Data is the basis of information. Information is the basis of knowledge". In assessing the type of data that needs to be collected, the following must be considered:

- What knowledge do you need?
- What information will help you obtain that knowledge?
- What data will help give you that information?

Information objectives of data collection on trafficking

In the context of trafficking in ASEAN member States, the report clarifies that member States need data which will help them work out how to prevent trafficking, prosecute offenders and protect victims, and measure their efforts in doing so.

Data collection principles

The report sets out and discusses the following data collection principles:

Principle 1 *To be useful, data has to be relevant to your objectives*

It is important to define objectives before undertaking data collection. Data is relevant if it provides Governments with information on how to meet the objectives of prevention, protection and prosecution, and if it helps to measure whether anti-trafficking efforts are having the intended effect (evaluation).

Principle 2 *Data needs to be regular and reliable*

Data needs to be collected and reported on a regular basis, to allow for tracking of changes over time. Data needs to be reliable; it must be accurate and precise, and the methodology for collection must be clearly explained and defendable.

Principle 3 *Data must be protected*

Data must be property protected, with clear policies and procedures that balance the interests of law enforcement with the need to ensure privacy, confidentiality and the personal safety of individuals. Anonymous, non-personal data is generally sufficient for policymaking purposes. Specific, personal data may be required for operational reasons. Access to this data should be subject to strict controls.

Principle 4 *Data must be turned into information and knowledge*

This involves implementing an appropriately designed and maintained information system at the agency level and/or at the national level. Information systems are not just computerized databases or spreadsheets; they require hardware, software, people and clearly defined data "fields". Information systems involve many steps, from identifying information needs and relevant data, to turning that data into information that is useful information for managers. Information systems have to be properly designed, implemented and maintained. Information systems must be sustainable.

ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons is available at:

www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=14477

Promising practice

For related promising practice concerning profiling of traffickers, see Tool 9.14.

Trafficking in Persons: Global Patterns

(United Nations Office on Drugs and Crime)

In April 2006, UNODC published a report on global trafficking patterns. The methodology used to collect the data compiled in this report was content analysis, which involves the systematic study, analysis and selective classification of the content of open source publications. Content analysis schemes are highly reliable: a different research group, using the scoring system and instructions assigned for the data collected, should be able to come up with the same categorizations, since the results achieved by the methodology are based on objective elements and not on perceptions, opinions or evaluations. The basic procedure in content analysis consists of:

- Selection of categories and subject to be analysed
- Rigorous establishment of criteria for inclusion, a feature which ensures that the study can be replicated by others
- Carefully following the pre-established classification scheme
- Statistically analysing the results

Prior to publication of the report, the methodology applied was reviewed and evaluated positively by a panel of independent experts.

In 2002, the Global Programme against Trafficking established a trafficking database on flows of trafficking in persons. The data entry phase consisted of a continuous screening of the principal sources, globally, that provide information on trafficking cases. Each account of trafficking selected by the team of researchers was entered into the trafficking database using the support of data-entry user-friendly software. The fields selected by the researchers and used for the IOM/ASEAN report were:

- Date of the entry
- Date of the publication
- Publication identification number (assigned to each publication during the data collection phase to avoid duplication and facilitate reference to the original source)
- Type of publication
- Publishing institution
- Route of the human trafficking (in terms of countries or areas or regions involved)

- Number of stages of each route
- Country, area or region of origin, of transit and of destination of the victims
- Type of exploitation (whether sexual exploitation or forced labour)
- Profile of the victims (whether men, women, children)
- Profile of offenders (nationality and gender)

More information about the data collection methodology can be found in *Trafficking in Persons: Global Patterns,* available for downloading at:

www.unodc.org/unodc/en/human-trafficking/publications.html

Frontex

Frontex is a European Union agency based in Warsaw, created as a specialized, independent body tasked with coordinating operational cooperation between European Union member States in the field of border security. A core activity of Frontex is carrying out risk analysis: assessing threats, looking at vulnerabilities and weighing consequences. Among its tailored risk analyses are assessments of migration flows from Africa into Europe, including trafficking in persons. The benefit of conducting such tailored risk analyses is that it will facilitate in designing joint operations at European Union borders to disrupt the flow of trafficking into the Union.

More information about the work of Frontex is available at:

www.frontex.europa.eu

Strategic Information Response Network

The Strategic Information Response Network is an initiative supported by UNIAP that is intended to deliver high quality, responsive and up-to-date data and analysis on cutting edge issues relating to trafficking in persons in the Greater Mekong subregion. The Network is intended to inform and encourage action by key governmental and non-governmental anti-trafficking stakeholders and to convey information to them in various forms, from brief reports, maps and data sheets, to discussion forums and debates. Research, validation and analysis is conducted in the field by community-based organizations, national and international agencies and/or UNIAP itself.

As secretariat to COMMIT, UNIAP is mandated by paragraph 29 of the memorandum of understanding on COMMIT, signed by the Governments of the subregion to develop "procedures for the collection and analysis of data and information on trafficking cases" and to ensure that "anti-trafficking strategies are based on accurate and current research, experience and analysis". The Strategic Information Response Network is intended to fulfil that mandate.

More information about the work of the Strategic Information Response Network is available at:

www.no-trafficking.org

Tool 9.16 The role of the media in preventing trafficking

Overview

This tool examines the role and responsibility of the media in preventing trafficking both by virtue of the information investigative journalists may come across in their work and through a cautious approach to accepting advertisements.

In addition to the key role in awareness raising that the media must play to prevent trafficking (see Tool 9.8 to Tool 9.11), there are several other special functions that they can perform. The media are indispensable in educating people about the many manifestations of trafficking in persons. Furthermore, they have a responsibility to ensure that, by taking a careful and informed approach to acceptance of advertisements, their outlets do not inadvertently assist traffickers to exploit people.

Awareness-raising role of the media

The media have a large role to play in mobilizing public support and involvement to help prevent and combat trafficking. Owing to their reach and their ability to mould public opinion, they are a powerful tool of social change. Investigative journalism on trafficking needs to be promoted. By writing an article or broadcasting an item focusing on trafficking in persons, the media not only educate the public but also shine light on an issue typically shrouded in darkness. Responsible scrutiny by international media can be the difference between a trafficker being released or imprisoned.

However, in some parts of the world, journalists and media outlets are not adequately aware of the trafficking phenomenon or do not have sufficient understanding of the dimensions of the problem. As a result, some media coverage confuses the issue with others, such as migrant smuggling. Media publicity should take into consideration the rights-based approach and ensure that there is no violation of the rights of victims and survivors.

When printing or broadcasting news on trafficking, local anti-trafficking helpline numbers and other sources of assistance for potential victims and members of the community should also be provided.

Media Dos and Don'ts

Protection of victims is at the heart of all anti-trafficking measures. Journalists, photographers and media outlets must protect potential and actual victims (and third persons) by altering the image, personal story and identity.

DO	DON'T
Tell the truth	Don't treat survivors as objects
Be accurate, objective and fair	Don't take photos of victims
Use masking techniques to avoid revealing the identities of victims and their families	Don't ask questions that violate the dignity of survivors (How many times were you raped? How many clients did you service each day?)
Delve into the reasons behind trafficking	Don't distort or blur facts to sensationalize stories
Visit source areas to understand the complexities of the root causes	Don't use tabloid-like or sensational headlines
Be investigative. In tracking down perpetrators, cooperate with law enforcement authorities	Don't try to take victims to their place of exploitation or make them mentally relive their experience
Highlight the challenges that survivors face	
Cover the story in court; focus on the law, its lacunae, its enforcement, delays, etc.	
Choose your words carefully	

Source: Not her real name . . . Reporting Trafficking in Persons—A Media Handbook, UNDP project on the prevention of trafficking, HIV/AIDS in Women and Children, New Delhi, 2006. More information is available at:

www.ungift.org/index.php?option=com_content&task=view&id=232&Itemid=556

Recommended resource

Trafficking in Women; Manual for Journalists

(Anti-Sex Trafficking Action, Serbia)

Trafficking in Women; Manual for Journalists is a publication of the Belgrade-based non-governmental organization Anti-Sex Trafficking Action. The manual primarily focuses on

trafficking in persons from, through and to Serbia, and the response to the crime by the governmental and non-governmental organization community of Serbia. In addition to Serbia-specific information, the manual provides general information about trafficking in persons for sexual exploitation, and information and advice for journalists seeking to report on this issue. Particularly relevant for the purposes of this Tool are those sections of the manual that discuss the issues and challenges involved in interviewing a victim of trafficking in persons for the purpose of sexual exploitation. Such information is useful to journalists, regardless of where they are writing about trafficking.

To obtain *Trafficking in Women; Manual for Journalists,* available in English and Serbian, contact Anti-Sex Trafficking Action at astra-sos@sezampro.yu

Responsible advertising

Advertisements in local, regional or national newspapers concerning adult services can sometimes be fronts for operations which exploit trafficked victims.

To ensure that media outlets are not a conduit for the exploitation of people, media outlets should:

- Provide trafficking hotlines alongside adult classified listings
- Cooperate with police in investigations where they are able
- Accept payments for classified advertisements only by cheque or credit card so that advertisers can be traced in the event that investigations are mounted

The awareness-raising role of the media is related to the role that the public can play in reporting trafficking. Those persons who are interested in obtaining adult services, must be aware that they may encounter victims of trafficking. They must also be aware of where to report any such suspicions. More information about this issue is available in Tool 9.12.

Promising practice

The Newspaper Society (United Kingdom)

The Newspaper Society represents 1,300 newspapers, 1,100 websites, 750 magazines, 36 radio stations and two television stations in the United Kingdom. On 1 November 2007, The Newspaper Society issued a statement concerning cooperation with the Minister for Women and Equality of the United Kingdom in combating trafficking in persons. The statement is primarily concerned with advertisements which can fuel demand for trafficked women. The meeting which lead to this joint action against trafficking was attended by the Minister for Women and Equality, a Home Office Minister, the Minister for Culture, Creative Industries and Tourism, the Solicitor General and representatives of The Newspaper Society, the Advertising Standards Authority, the Committee of Advertising Practice and the Advertising Association.

The Minister for Women and Equality stated that small advertisements, such as "new girls every day" and "international ladies 24/7", placed at the back of local papers were believed by police to possibly fuel demand for trafficked women and girls. The Home Office Minister said that the Government was committed to strengthening its guidance to local papers on what advertisements to accept, and to exploring a range of other cooperative initiatives. The Director of The Newspaper Society made a pledge to examine the guidance the Society issued to publishers to ensure that that guidance reflected concerns about trafficking, and to raise those concerns with regional and local newspaper publishers.

The Newspaper Society also provides legal advice and guidance to members in the form of "Ad points to watch", an A to Z of advertising law and advertisement control advice services. Such information includes cautions concerning advertisements which may be disguising sexual services.

An example of a promising measure is one taken by Archant Regional, the newspaper publishing arm of Archant, which publishes four daily titles, around 30 weekly paid-for and around 45 weekly free newspapers totalling a combined weekly circulation of around three million copies. In Suffolk, after five prostitutes were murdered in 2007, Archant Regional decided, in conjunction with the police, to only accept payments by cheque or bank card for adult classified advertisements in order to facilitate investigations.

For more information about these initiatives, visit the website of The Newspaper Society: www.newspapersoc.org.uk. This issue was also reported in *The Economist* of 1 November 2007 ("Indecent proposals", p. 43).

For related promising practice, see also Tool 9.12.

Recommended resources

Various media codes of conduct are available. For some examples, visit the website of the Society of Professional Journalists at:

www.spj.org/ethicscode.asp

Tool 9.17 Conduct of peacekeepers and other law enforcement personnel

Overview

This tool discusses the standard to which United Nations peacekeepers and other personnel are held with respect to their conduct while on mission.

One aspect of the problem of trafficking in persons is the trafficking of people into peace support operation areas. UNICRI makes three observations about the relationship between peace support operations and trafficking in persons:

- In contemporary peace support operations, the international community is the primary (or only) source of law enforcement, making these operations the primary law enforcement authority for combating trafficking
- Because peace support operation staff are paid a high wage in the context of the localities they serve in, they may knowingly or unknowingly serve as a primary source of demand for trafficked persons, for example in brothels and for domestic labour
- In some cases, members of peace support operations have been implicated in trafficking.

Source: UNICRI website:
www.unicri.it/wwd/trafficking/peacekeeping/index.php

The United Nations is stepping up efforts to address the issue of trafficking and related prostitution in post-conflict zones and recognizes that it must play a key role in combating this crime as it relates to allegations and incidents involving its peacekeeping personnel.

- Peacekeepers have a duty to uphold and respect the rights of all members of the host population, particularly women and children, who may be at greater risk of sexual abuse and exploitation. Sexual activity of peacekeeping personnel with anyone under the age of 18 is prohibited, regardless of consent.
- Sexual exploitation and sexual abuse of local populations, including refugees and beneficiaries of assistance, are prohibited. Exchanging money, shelter, food or other goods for sex or sexual favours is sexual exploitation.
- The use of prostitutes by United Nations personnel in mission areas constitutes exploitation and is prohibited. Even where prostitution is not a crime, the purchase of sexual services by United Nations peacekeeping personnel constitutes an act of sexual exploitation.
- All members of peacekeeping operations are prohibited from visiting or purchasing sex at off-limit locations such as bars, nightclubs, brothels or hotels where sexual exploitation and abuse in the form of prostitution are present. The presence of a member of a peacekeeping operation in an off-limit location constitutes support for sexual exploitation and contributes to the profits of organized crime.

  The establishment of off-limits locations in mission areas is the responsibility of the head of mission. Managers at all levels are obliged to create an environment that prevents sexual abuse and have a responsibility to support and develop systems that maintain this environment.

  Non-compliance with directions concerning off-limits locations constitutes misconduct.

Anti-trafficking policy of the Department of Peacekeeping Operations of the United Nations

- The Department of Peacekeeping Operations must ensure that peacekeepers are not part of the problem of human trafficking
- The Department of Peacekeeping Operations must identify ways within its mandate to support national structures to combat human trafficking

All United Nations peacekeeping personnel (military, civilian police and civilians) are required to maintain the highest standard of integrity and uphold the same standard of conduct. Any involvement of peacekeeping personnel in human trafficking or any other form of sexual abuse or exploitation constitutes an act of serious misconduct and grounds for disciplinary measures, such as dismissal or repatriation.

The possible consequences of peacekeeping personnel involvement in human rights abuses such as trafficking, beyond the abuse itself, can include:

- The credibility of the entire peacekeeping operation being undermined
- Personnel being exposed to blackmail
- Perpetrators, or the entire contingent or mission, being subject to violent retaliation by family members or communities
- Where those implicated are also responsible for security, military objectives and operational effectiveness can be compromised

The United Nations has a policy of zero tolerance for the commission of acts of sexual exploitation and abuse by personnel employed by or affiliated with the United Nations.

Secretary-General's Bulletin (ST/SGB/2003/13)

Special measures for protection from sexual exploitation and sexual abuse

Section 3

Prohibition of sexual exploitation and sexual abuse

3.1 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.

3.2 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.

3.3 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.

The full text of the Secretary-General's Bulletin (ST/SGB/2003/13) and information about the Conduct and Discipline Units of the Department of Peacekeeping Operations are available at:

www.un.org/Depts/dpko/CDT/about.html

Department of Peacekeeping Operations of the United Nations: reforms to eliminate sexual exploitation and abuse

In 2004, the United Nations Secretary-General invited Prince Zeid Ra'ad Zeid Al-Hussein, the Permanent Representative of Jordan to the United Nations, to act as his adviser on the problem of sexual exploitation and abuse by United Nations peacekeeping personnel. The report Prince Zeid prepared on the issue, entitled "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations" (A/59/710), was submitted to the General Assembly in March 2005.

The report provided a comprehensive and innovative package of reforms, which were debated in the General Assembly in April 2005. This led to the adoption of a two-year package of reforms for peacekeeping on sexual exploitation and abuse (see A/59/19/Rev.1, Part two and General Assembly resolution 59/300).

This reform package is currently under implementation through the Department of Peacekeeping Operations' comprehensive strategy on sexual exploitation and abuse.

"A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations" (A/59/710) and the package of reforms for peacekeeping on sexual exploitation and abuse contained in document A/59/19/Rev.1 and General Assembly resolution 59/300 are available at:

www.un.org/Depts/dpko/CDT/reforms.html

Department of Peacekeeping Operations: Comprehensive strategy on sexual exploitation and abuse

The Department of Peacekeeping Operations' comprehensive strategy to address sexual exploitation and abuse comprises:

- Measures aimed at prevention of misconduct
- Enforcement of United Nations standards of conduct
- Remedial action

Measures aimed at prevention of misconduct

- Since mid-2005, training on prevention of sexual exploitation and abuse is mandatory for all peacekeeping personnel on arrival at a mission
- Missions are also improving welfare and recreation facilities for all categories of peacekeeping personnel using existing resources, pending the development of a comprehensive strategy in this area, requested by the General Assembly.

Enforcement of United Nations standards of conduct

- Owing to the provision of additional guidelines and the establishment of conduct and discipline teams, allegations and investigations of misconduct are being handled more consistently and professionally
- Improvements have been made to record-keeping, data tracking and reporting on allegations and cases of misconduct
- In October 2006, the United Nations Secretary-General submitted to Member States a revised draft model memorandum of understanding relating to United Nations peacekeeping operations (A/61/494). The revisions covered a wide range of troop conduct issues. Groups of legal experts have been established to advise on a number of issues, including that of increasing the criminal accountability of United Nations staff

Remedial action

- The draft United Nations policy statement and draft United Nations comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff or related personnel (A/60/877, annex) have been submitted to Member States

- In the interim, missions have been authorized to refer complainants to basic emergency assistance.

In 2006, the Department of Peacekeeping Operations issued guidance to public information experts on sexual exploitation and abuse with the aim of improving the flow of information to communities on such issues as victim assistance and the outcome of investigations into misconduct.

Information about the Conduct and Disciplinary Unit of the Department of Peacekeeping Operations of the United Nations is available at:

www.un.org/Depts/dpko/CDT/strategy.html

North Atlantic Treaty Organization

The North Atlantic Treaty Organization (NATO) is an alliance of 26 countries in North America and Europe committed to fulfilling the goals of the North Atlantic Treaty signed on 4 April 1949. NATO has a zero tolerance policy regarding trafficking in human beings by NATO forces and staff. This policy was adopted in June 2004 and endorsed by NATO Heads of State and Government at the Istanbul Summit. The NATO Policy on Combating Trafficking in Human Beings commits NATO and troop-contributing nations to reinforce efforts to prevent and combat trafficking. The appendices to the policy provide particular guidance on this issue:

- Appendix 1. NATO Guidelines on combating trafficking in human beings for military forces and civil personnel deployed in NATO-led operations
- Appendix 2. NATO Guidance for the development of training and education programmes to support the policy on combating the trafficking in human beings
- Appendix 3. Guidelines for NATO staff on preventing the promotion and facilitation of trafficking in human beings

Paragraph 3 of appendix 1 states that "forces conducting operations under NATO command and control are prohibited from engaging in trafficking in human beings or facilitating it. This prohibition also applies to any civilian element accompanying such forces, including contractors".

The NATO Policy on Combating Trafficking in Human Beings is available at:

www.nato.int/docu/comm/2004/06-istanbul/docu-traffic.htm

Organization for Security and Cooperation in Europe: Code of Conduct for Mission Members (2000)

According to the OSCE Anti-Trafficking Guidelines, "All personnel should abide by local laws and adopt exemplary standards of personal behaviour. Field personnel should abide by the OSCE Code of Conduct for OSCE Mission Members [Vienna, 2000], which has been recently updated by the OSCE Secretariat to take trafficking into account". Paragraph 6 of the Code of Conduct for Mission Members, concerning compliance with accepted human rights standards, reads:

> Mission Members must refrain from any conduct which could be detrimental to the goals of the OSCE. This includes but is not limited to an affiliation with any person who is suspected of being involved in any activity that violates national or international law or accepted human rights standards, or an affiliation with any person who could reasonably be suspected of engaging in trafficking in human beings.
>
> Mission Members shall be aware that the use of the services of a person suspected of being a victim of trafficking contributes both to the profit of traffickers and the harm to victims. Mission Members shall adopt an exemplary standard of personal behaviour to ensure the OSCE is contributing to combating trafficking in human beings, and is not exacerbating the problem.

The OSCE Anti-Trafficking Guidelines are available at:
www.osce.org/documents/odihr/2001/06/1563_en.pdf

The OSCE Code of Conduct for OSCE Mission Members is available at:
http://legislationline.org/legislation.php?tid=178&lid=6766&less=false

Promising practice

Ministry of Justice and the Police (Norway)

On 17 October 2002, the Government of Norway 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 by 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 for preventing people from being degraded as victims of human trafficking for sexual purposes.

Source: The website of the Ministry of Justice and the Police of Norway:

http://odin.dep.no/jd/engelsk/publ/veiledninger/012101-990367/dok-bn.html

Further information on the ethical guidelines is available on this website.

Department of Defense (United States)

The United States Department of Defense has put in place a zero tolerance policy opposing prostitution as a contributing factor to sex trafficking. The United States Forces Korea developed a programme that focuses on increasing awareness, identifying victims, reducing demand and cooperating with local authorities.

Since late 2006, patronizing prostitution is a specific, chargeable offence for service members under article 134 of the Uniform Code of Military Justice, of the United States military's statutory criminal law.

In response to allegations of labour trafficking in Iraq committed by Department of Defense contractors or subcontractors employing third-country national workers, safeguards have been implemented, including the mandate that all contractors stop withholding employees' passports, that employees be provided with a signed copy of their work contract and that contractors and subcontractors be required to use certified recruiting firms. New regulations also require that contractors provide anti-trafficking training to all employees to ensure compliance with United States law and the law of host nations.

Anti-trafficking training is mandatory for all United States service personnel. Department of Defense civilians stationed in the United States or abroad and military police receive specialized training to help them recognize and identify possible trafficking scenarios.

Source: This and further information is available on the United States Department of State website:

www.state.gov/g/tip/rls/fs/07/82340.htm

United Nations Interim Administration Mission in Kosovo

UNMIK has declared a number of establishments in Kosovo to be "off limits", in accordance with the UNMIK Police Directive for Off Limits Premises, which is distributed to all UNMIK staff members, who are required to make themselves aware of these

establishments. Establishments are placed on the "off limits list" based on suspicion that they are involved in the sex industry (not necessarily with trafficked women). As a precautionary measure, UNMIK staff are barred from visiting such establishments. See the UNMIK strategy and commitment to combat trafficking in Kosovo in Tool 2.7.

For more information about UNMIK policies, visit:

www.unmikonline.org/

Tool 9.18 Training for peacekeepers and other law enforcement personnel

Overview

This tool refers to some training materials and programmes developed for peacekeepers and other international law enforcement personnel.

For other training manuals for law enforcement personnel, see Tool 5.20 and Tool 2.14.

United Nations Interregional Crime and Justice Research Institute in-service training programme for international law enforcement personnel

UNICRI asserts that strategies to form a comprehensive anti-trafficking framework are falling short of the demand. The deficiencies include:

- Uneven application of existing training regimens within and across institutions
- Failure to engage local institutions in a fruitful manner
- Lack of knowledge of ongoing or proposed training curricula

In 2003, UNICRI, in partnership with the Universities of Essex and Turin, and the European Institute for Crime Prevention and Control, affiliated with the United Nations, implemented a European Commission-funded project under the framework programme for police and judicial cooperation in criminal matters (AGIS) (Council decision 2002/630/JHA) aimed at countering organized crime and criminal networks involved in trafficking in peace support mission areas by improving information on and awareness of the problem and creating and bolstering anti-trafficking capacities through a dedicated training manual for international law enforcement personnel participating in peace support operations.

Although the training manual addresses the trafficking situation in peace support operations in the Balkans, the lessons learned in this region can be extended to create a training programme for members of all other peace support operations.

In 2005, again with the financial support of the European Commission through the framework programme for police and judicial cooperation in criminal matters, in partnership with the University of Turin, the European Institute for Crime Prevention and Control and the Dutch Centre for International Police Cooperation, UNICRI delivered a pre-deployment and in-service training programme for international law enforcement personnel coming from European Union and candidate countries. In three separate three-day training seminars, participants from 17 countries received training on trafficking in persons in peace support operations, targeted in particular to police officers deployed or going to be deployed in support missions in South-East Europe. In July 2006, UNICRI updated and revised the first edition of the manual on the basis of the feedback received from trainers and participants.

Training Manual on Trafficking in Human Beings and Peace-Support Operations (July 2006)

The training manual, entitled *Trafficking in Human Beings and Peace-Support Operations: pre-deployment/in-service training programme for international law-enforcement personnel*, addresses:

- The definition and elements of trafficking in persons
- The root causes of trafficking, and the special vulnerability of women and children
- Trafficking as a transnational organized crime
- The identification of trafficking victims
- Principles of victim protection and rights of victims
- Responsibilities of peace support operation staff in relation to anti-trafficking

Source: This information was derived from:
www.unicri.it/wwd/trafficking/peacekeeping/index.php

For more information about the training manual on trafficking in human beings and peace-support operations, please write to information@unicri.it

Training in peace support operations

United Nations Institute for Training and Research

The Programme of Correspondence Instruction of the United Nations Institute for Training and Research provides self-paced distance training for persons preparing to be deployed in peacekeeping missions. Students may enrol in as many courses as they like, or in the programme leading to the Certificate of Training in United Nations Peace Support Operations. The courses may be completed by using online resources, but students without Internet access can use postal or fax services. Many of the courses are available in a range of languages.

Two new courses are of particular relevance to the prevention of trafficking:

Gender Perspectives in United Nations Peacekeeping Operations

Released in 2007, this course teaches conceptual and operational issues involved in integrating gender perspectives into peace support operations. The course explains how gender balance and gender quality allow women to stop being victimized in conflict. The course also emphasizes the need for women to have a strategic role at all United Nations decision-making levels and at the mission level, as well as at Government and local levels.

Ethics in Peacekeeping

Released in 2006, this course provides a basic overview and creates understanding of the ethics of peacekeeping. Through case studies and practical examples, it is intended to guide peacekeepers in the field and offer perspectives on aspects of modern-day peacekeeping from an ethical point of view. Topics covered include:

- The code of conduct
- Cultural awareness
- Gender and peacekeeping
- Human trafficking
- Child protection
- Human rights
- HIV/AIDS awareness
- United Nations guidelines and procedures on discipline for uniformed peacekeepers

For more information about these and other training courses, visit: www.unitarpoci.org

French: www.unitarpoci.org/fr

Spanish: www.unitarpoci.org/es

NATO Advanced Distributed Learning through the NATO School

The NATO School and the International Relations and Security Network in Zurich have produced two courses covering various dimensions of human trafficking, including NATO policy on combating trafficking in persons and the impact of the crime on NATO-led operations. The courses are available to anyone, free of charge, via http://pfp.ethz.ch/—the Learning Management System hosting the Advanced Distributed Learning programme. The self-paced courses are undertaken independently, without the support or involvement of any tutor or professor. No certificate or diploma is awarded after successful completion of the course.

The Advanced Distributed Learning courses offered in relation to trafficking in persons are:

Human Trafficking: Causes, Consequences, Counter-strategies

This course distinguishes between different types of trafficking (trafficking of women, men and children for the purpose of labour or sexual exploitation, the illicit trade in human organs and the trade in children for adoption), provides an overview of the history of human trafficking, explores the causes and consequences of trafficking in persons, and discusses the strategies used to combat the crime.

Combating Trafficking in Human Beings

This course introduces students to the problem of trafficking in persons and the possibilities for combating this organized crime. It also introduces the NATO policy on combating trafficking and discusses the impact of trafficking on NATO-led operations. The topics covered by this course are:

- The principles of the NATO policy on combating trafficking in human beings
- The issue of trafficking in human beings
- Identification of victims and perpetrators of trafficking
- The impact of human trafficking on NATO-led operations
- The duties of NATO-led forces in preventing trafficking in persons

More information about NATO courses is available at:

www.ndc.nato.int/courses/adlcourse.html#cthb

The courses specific to anti-trafficking can be accessed via http://pfp.ethz.ch/

Other recommended resources

Peacekeeping best practice

The Peacekeeping Best Practices Section of the Department of Peacekeeping Operations of the United Nations assists in the planning, conduct, management and support of peacekeeping operations by learning from experience, problem solving and transferring best practices in United Nations peacekeeping.

The overall goal of the Peacekeeping Best Practices Section is to develop and support a culture of best practice in United Nations peacekeeping by helping to establish and develop the mechanisms and working habits to share knowledge. To this end, it makes best practice resources available online, including a range of anti-trafficking resources.

Peacekeeping best practice resources are available at:

http://pbpu.unlb.org/pbps/Pages/Public/Home.aspx

Department of Peacekeeping Operations Human Trafficking Resource Package

The Department of Peacekeeping Operations Human Trafficking Resource Package aims to define the problem of trafficking in persons in the context of United Nations peacekeeping environments and proposes strategies to address the issue based on lessons learned from previous missions and consultations with partner organizations. This resource package explains the policy of the Department of Peacekeeping Operations of the United Nations on trafficking in persons and outlines its programmatic approach to the issue. The three primary objectives of this resource package are:

- To raise awareness among all staff in current missions about human trafficking
- To assist trainers by providing updated and improved training materials
- To provide additional resources for those mandated specifically to address trafficking in particular missions

The resource package is available at:

http://pbpu.unlb.org/pbps/library/trafficking%20Resource%20Package.pdf

Resources on women and peacekeeping of the United Nations Development Fund for Women

In cooperation with Governments, other United Nations bodies, international and national organizations and non-governmental organizations, UNIFEM has assisted women in conflict situations and supported their participation in peace processes. UNIFEM provides strategic and catalytic support to mainstream gender and to support women's participation in all efforts to build peace and resolve conflicts. Women's protection in armed conflict and their centrality to conflict prevention, peacekeeping and peace-building is a primary concern of UNIFEM and the international community.

UNIFEM resources relating to women and peacekeeping are available at:

www.peacewomen.org/resources/Peacekeeping/peacekeepingindex.html

Human Rights and Humanitarian Law in Professional Policing Concepts

(International Committee of the Red Cross)

This International Committee of the Red Cross brochure addresses the principles and rules of humanitarian law and human rights law in the context of law enforcement and many aspects of it are relevant to the training of law enforcement officials in relation to trafficking in persons.

This brochure, of which there are also French, Portuguese, Russian and Spanish versions, is available in English at:

www.icrc.org/web/eng/siteeng0.nsf/html/p0809

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 *To Serve and Protect: 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.

The training manual can be consulted at:

www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0698/$File/ICRC_002_0698.PDF!Open

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:

www.trainingforpeace.org/resources/vawc.htm

Tool 9.19 Trafficking in persons for organ removal

Overview

This tool discusses the trafficking of organs and the trafficking of persons for the purpose of organ removal.

As with trafficking in persons for other exploitative purposes, victims of trafficking for the purpose of organ removal are selected from vulnerable groups (for instance, those who are suffering from extreme poverty) and traffickers are often part of transnational organized crime groups. The commission of this crime can be distinguished from others in terms of the sectors from which traffickers and organ "brokers" derive: doctors and other health-care practitioners, ambulance drivers and mortuary workers are often involved in organ trafficking in addition to the actors involved in other criminal trafficking networks. Furthermore, issues of consent and exploitation related to organ removal are complicated by the fact that often victims will consent to the removal of their organs and will receive the agreed payment for them. However, as is common in situations of trafficking in persons for any exploitative purpose, the provision of the "service" is driven by extreme poverty and abuse of vulnerability.

Steps towards preventing trafficking in persons for the purpose of organ removal

- Thus far, there is inadequate information available about trafficking in persons for the purpose of organ removal. This hails a need for increased data collection and research.
- The crime of trafficking in persons for the purpose of organ removal, intersects with the crime of trafficking of organs. Therefore, there must be greater collaboration and co-operation between actors involved in combating organ-related crimes, such as health organizations and survivor support services, and those involved in combating trafficking in persons, such as criminal justice sectors.
- Law enforcers are at the front line for identifying both trafficking victims and traffickers. Police officers, and customs and border officials should be provided with training that equips them to identify potential and actual victims, and perpetrators of organ trafficking and trafficking for the purpose of organ removal.
- As with all measures which go towards combating trafficking in persons, victim protection and assistance are paramount. Support services for survivors of organ removal should therefore work cooperatively with support services for victims of trafficking.

The key challenge in reducing the demand for illicitly trafficked organs and trafficking in persons for the purpose of organ removal is balancing the interests of organ recipients with those of organ donors.

Reducing demand

Reducing demand for organs necessitates the involvement of a range of actors. Members of the medical and health-care sector must act to ensure that organs are not procured through financial transactions. Tourist operators must ensure that they do not support "transplant tourism", which exploits economically-desperate people. Tribal, cultural and community leaders must act to make sure that cultural and traditional medical practices are not interpreted in a way that is manifested in interference with people's bodily integrity.

Fundamental to the need to reduce demand for organs, which fuels their exploitative procurement, is the need to:

- Reduce the health conditions which lead to organ failure
- Increase the supply of organs donated through channels which guard against exploitation by donors who are willing and able to donate their organs

Promising practice

GLOBAL

Resolution WHA57/18 adopted by the Fifty-seventh World Health Assembly

In its resolution WHA57/18, entitled "Human organ and tissue transplantation", adopted on 22 May 2004, the Fifty-seventh World Health Assembly expressed its concern at "the growing insufficiency of available human material for transplantation to meet patient needs". It urged Member States to extend "the use of living kidney donations when possible, in addition to donations from deceased donors". Mindful of the risk this posed to pushing the trade in organs underground, the World Health Assembly also urged Member States to "take measures to protect the poorest and most vulnerable groups from 'transplant tourism' and the sale of tissues and organs, including attention to the wider problem of international trafficking in human tissues and organs".

The full text of the World Health Assembly resolution is available at:

www.who.int/ethics/en/A57_R18-en.pdf

More information on the ethics of organ and tissue transplantation is available from WHO at:

www.who.int/ethics/topics/human_transplant/en/

General Assembly resolution 59/156 on preventing, combating and punishing trafficking in human organs

In its resolution 59/156, adopted on 20 December 2004, the General Assembly, discussing the trafficking of human organs in the context of transnational organized crime:

- Urged Member States to adopt measures to prevent, combat and punish the illicit removal of and trafficking in human organs
- Encouraged Member States to exchange experience in and information on preventing, combating and punishing the illicit removal of and trafficking in human organs
- Requested the Eleventh United Nations Congress on Crime Prevention and Criminal Justice to pay attention to the issue of illicit removal of and trafficking in human organs
- Requested the Secretary-General, in collaboration with the States and organizations concerned and subject to the availability of extrabudgetary resources, to prepare a study on the extent of the phenomenon of trafficking in human organs for submission to the Commission on Crime Prevention and Criminal Justice at its fifteenth session

The full text of the resolution is available at:
www.un.org/Depts/dhl/resguide/r59.htm

Report of the Secretary-General to the Commission on Crime Prevention and Criminal Justice on preventing, combating and punishing trafficking in human organs (E/CN.15/2006/10)

Pursuant to the request contained in General Assembly resolution 59/156 of 20 December 2004, the Secretary-General submitted a report on the extent of the phenomenon to the Commission on Crime Prevention and Criminal Justice at its fifteenth session.

That report provides a preliminary overview of the scope and nature of trafficking in human organs, including global trends and an initial assessment of the degree to which organized criminal groups are involved. Section V of the report discusses the involvement of organized criminal groups in trafficking in human organs, stating that a clear distinction needs to be made between selling organs and trafficking in organs, the latter situation being less common than the former.

A method used by organized criminal groups to obtain organs is luring people abroad with false promises and convincing or forcing them to sell their organs in order to repay their "debts". Recipients of the organs must pay a much higher price, part of which benefits brokers, surgeons and hospital directors, who have been reported to be involved in the organized criminal network.

Paragraph 81 of the report states that "the extent of the relationship between trafficking in organs and trafficking in persons (and other forms of organized crime) is unclear". It highlights the link between unemployment, lack of education and poverty, and vulnerability to such crimes, and states that while cases of persons trafficked for the purpose of organ removal are not common, some have been reported.

Paragraph 82 states that there is no conclusive evidence regarding the trafficking of children for the purpose of organ removal, but that many abducted or missing children have subsequently been found dead, their bodies mutilated and certain organs removed. The report notes here that it is medically possible to transplant a child's organ into an adult's body. In subsequent paragraphs the use of organs for use in witchcraft practices is flagged.

The full report is available at:

www.unodc.org/unodc/en/commissions/CCPCJ/session/15.html

REGIONAL

Convention on Human Rights and Biomedicine

Council of Europe, Oviedo, 4.IV.1997

Chapter VI of the Convention concerns organ and tissue removal from living donors for transplantation purposes. Chapter VII prohibits financial gain from disposal of a part of the human body, stating in article 21 that "The human body and its parts shall not, as such, give rise to financial gain".

The text of the Council of Europe Convention on Human Rights and Biomedicine is available at:

http://conventions.coe.int/treaty/en/treaties/html/164.htm

Additional Protocol to the Convention on Human Rights and Biomedicine concerning transplantation of organs and tissues of human origin

Council of Europe, Strasbourg, 24.I.2002

The preamble to the Additional Protocol to the Convention on Human Rights and Biomedicine acknowledges the risks posed to vulnerable persons by the shortage of organs and tissues available to those who demand them. It states that organ and tissue transplantation should take place under conditions protecting the rights and freedoms of donors, potential donors and recipients of organs and tissues, that institutions must be instrumental in ensuring such conditions and that there is a need to protect individual rights and freedoms and to prevent the commercialization of parts of the human body involved in organ and tissue procurement, exchange and allocation activities.

Chapter VI of the Additional Protocol prohibits financial gain. Article 21, paragraph 1, states that the human body and its parts shall not, as such, give rise to a financial gain or comparable advantage. It clarifies, however, that this provision does not prevent payments which do not constitute financial gain, such as compensation of living donors for loss of earnings

or other justified expenses, payment for legitimate medical or technical services rendered and compensation in cases resulting in damage. Article 21, paragraph 2, states that advertising the need for, or availability of, organs or tissues, with a view to offering or seeking financial gain or comparable advantage, shall be prohibited.

Article 22 of the Additional Protocol clearly prohibits the trafficking of organs and tissues.

The text of the Additional Protocol can be found at:
http://conventions.coe.int/treaty/en/treaties/html/186.htm

Initiative of the Hellenic Republic with a view to adopting a Council Framework Decision concerning the prevention and control of trafficking in human organs and tissues

Council of the European Union, 2003/C 100/13

In February 2003, Greece proposed the adoption by the Council of the European Union of a framework decision on the prevention and control of trafficking in human organs and tissues. This proposal was formulated on the basis of articles 29, 31 *(e)* and 34 (2) *(b)* of the Treaty on European Union, emphasizing cooperation to prevent organized crime. The Initiative of the Hellenic Republic with a view to adopting a Council Framework Decision concerning the prevention and control of trafficking in human organs and tissues states at the outset that

> Trafficking in human organs and tissues is a form of trafficking in human beings, which comprises serious violations of fundamental human rights and, in particular, of human dignity and physical integrity. Such trafficking is an area of activity of organized criminal groups who often have recourse to inadmissible practices such as the abuse of vulnerable persons and the use of violence and threats. In addition, it gives rise to serious risks to public health and infringes on the right of citizens to equal access to health services. Finally, it undermines citizens' confidence in the legitimate transplantation system.

This initiative goes further than the Trafficking in Persons Protocol, which does not include the removal of tissues, such as skin, bones, cartilage, ligaments and corneas. The initiative also fills gaps left by the lack of reference to trafficking in human organs and tissues in Council Framework Decision 2002/629/JHA on combating trafficking in human beings, adopted in 2002.

The European Parliament approved the Initiative of the Hellenic Republic, with some amendments, in a legislative resolution of 23 October 2003.

Both the original initiative of the Hellenic Republic and the amended text approved by the European Parliament are available at:
www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2003-0457+0+DOC+XML+V0//EN&language=LV

Recommended resources

ORGANIZATIONS

Organs Watch

Launched in 1999 at the University of California, Berkeley, in the United States, Organs Watch is an independent documentation centre focusing on organ-related issues. Organs Watch follows up global rumours concerning organs, issues reports to the media and medical societies, and investigates individual complaints and allegations. Organs Watch brings together anthropologists, human rights activists, physicians and social medicine specialists to explore the social and economic dimensions of organ transplantation, focusing on the human rights implications of the desperate, worldwide, search for organs. The Organs Watch website allows access to extensive research and a range of publications.

The Organs Watch website address is:

http://sunsite.berkeley.edu/biotech/organswatch/

Coalition for Organ-Failure Solutions

The Coalition for Organ-Failure Solutions is an international health and human rights organization committed to ending the exploitation of vulnerable people as a source of organ and tissue supplies. The Coalition combines prevention, policy advocacy and survivor support.

In its policy reform efforts, the coalition seeks to improve alternative organ supplies for patients in need and to protect individuals from exploitative practices of commercialized organ donation. The Coalition also carries out targeted awareness-raising campaigns and calls to action, engages decision makers and key stakeholders in its mission and carries out grassroots advocacy with potential commercial living donors.

For more information on the work of the Coalition for Organ-Failure Solutions, visit:

www.cofs.org

Initiative on Global Organ Trafficking

The Initiative on Global Organ Trafficking is a movement dedicated to combating the exploitative trafficking of human organs. It provides a range of information and materials about organ trafficking, intending to serve as a clearing house of information about illicit

organ trade. The Initiative also conducts research into transplant trafficking and aims to raise awareness of the issue.

The Initiative on Global Organ Trafficking can be found at:
www.organtrafficking.org/index.html

REPORTS

Coercion in the Kidney Trade? A background study on trafficking in human organs worldwide

In 2004, the German Agency for Technical Cooperation (GTZ) published a background study on trafficking in organs.

This report can be found at:
www.gtz.de/traffickinginwomen

Trafficking in organs in Europe

Council of Europe, doc. 9822, 3 June 2003, Report of the Social, Health and Family Affairs Committee of the Parliamentary Assembly

This 2003 report discusses the issues involved in the supply and demand of organs in Europe, and the ethical issues involved. It also makes recommendations for Member States to combat the transnational organized crime of organ trafficking.

This report can be found at:
http://assembly.coe.int/documents/workingdocs/doc03/edoc9822.htm

Human organ trafficking resources

A collection of reports and articles relating to trafficking in human organs can be found at:
www.vachss.com/help_text/organ_trafficking.html

chapter 10

MONITORING AND EVALUATION

Monitoring and evaluation should never be an afterthought in trafficking programmes; they are an integral part of the successful implementation of anti-trafficking programmes and activities. This chapter provides an overview of monitoring and evaluation (Tool 10.1) and shows how both fit into the context of a project cycle (Tool 10.2). Tool 10.3 contains a logical framework which can be used in project design, implementation, monitoring and evaluation. Tool 10.4 explains the process of evaluation and provides an overview of both the terms of reference for a project evaluation and the contents of the evaluation report which results from it. Lastly, Tool 10.5 offers some guidance for monitoring and evaluation of projects specific to anti-trafficking and recommends resources to build knowledge and capacity in that respect.

Tool 10.1 Overview of monitoring and evaluation

Tool 10.2 Monitoring and evaluation in the project cycle

Tool 10.3 Logical framework

Tool 10.4 How to plan and conduct an evaluation

Tool 10.5 Monitoring and evaluation of projects relating to trafficking in persons

Tool 10.1 Overview of monitoring and evaluation

Overview

This tool briefly describes both monitoring and evaluation, and the distinction between the two.

What is monitoring?

Monitoring is a continuing function that uses systematic collection of data on specific indicators to provide the management and the main stakeholders of an ongoing intervention

with indications of the extent of achievement of objectives and progress in the use of allocated funds.

Indicators

An indicator is a quantitative or qualitative variable that allows changes produced by an intervention relative to what was planned to be measured. It provides a reasonably simple and reliable basis for assessing achievement, change or performance. An indicator is preferably numerical and can be measured over time to show changes. Indicators, which are determined during the planning phase of a project, usually have the following components:

1. What is to be measured? (What is going to change? E.g., participants reporting higher school attendance of girls in a village)

2. Unit of measurement to be used (to describe the change, e.g., percentage)

3. Pre-programme status (sometimes called the "baseline", e.g., 40 per cent in 2007)

4. Size, magnitude or dimension of intended change (e.g., 75 per cent in 2008)

5. Quality or standard of the change to be achieved (e.g., improvement such that girls obtain higher grades)

6. Target populations(s) (e.g., girls vulnerable to trafficking from villages in southern district)

7. Time frame (e.g., January 2008 to January 2009)

What is evaluation?

Evaluation is the systematic and objective assessment of ongoing and/or completed projects, programmes or policies, in respect of their:

- Design
- Implementation
- Results

The criteria applied in the evaluation are:

- Objectives
- Efficiency
- Effectiveness
- Impact
- Sustainability

Evaluation emphasizes the assessment of outcomes and impact rather than the delivery of outputs.

See the Evaluation Quality Standards available at:

www.oecd.org/document/29/0,3343,en_2649_34435_16557149_1_1_1_1,00.html

Norms for evaluation

United Nations Evaluation Group

In April 2005, the United Nations Evaluation Group issued norms and standards with a view to the harmonization of evaluation in the United Nations system. The United Nations Evaluation Group norms seek to facilitate system-wide collaboration on evaluation, by ensuring that evaluation within the United Nations system abides by agreed-upon basic principles:

- Intentionality (intent to use evaluation findings)
- Impartiality
- Independence
- Evaluability
- Quality
- Competence
- Transparency and consultation
- Evaluation ethics
- Follow-up
- Contribution to knowledge building

The United Nations Evaluation Group norms and standards are available in Chinese, English, French, Russian and Spanish at:

www.uneval.org

Distinguishing between monitoring and evaluation		
	Monitoring	**Evaluation**
Timing	Monitoring is a continuing function that takes place throughout the implementation of a project/programme.	Evaluation assesses the entire project cycle.
Depth and purpose	Monitoring is a regular part of project or programme management. It focuses on the implementation of the project, comparing what is delivered with what was planned.	Evaluation reviews the achievements of the project/ programme and considers whether the plan was the best one to achieve the outcomes. Evaluation measures achievements, as well as positive/ negative and intended/ unintended effects. Evaluation looks for lessons to be learned from both success and lack of success, and also looks for best practices which can be applied elsewhere.
Who conducts it	Monitoring is usually done by people directly involved in implementing the project/ programme.	Evaluation is best conducted by an independent outsider who can be impartial in consulting with project/ programme staff.
Relationship between monitoring and evaluation	Data collected and insights gained in the course of monitoring are then fed into and used by the evaluation process.	

Recommended resources

There are various organizations and resources dedicated to the harmonization and improvement of monitoring and evaluation. Many of these may offer lessons with respect to the monitoring and evaluation of anti-trafficking programmes. The following is just a small selection of the resources available.

How to Build M&E Systems to Support Better Government

Keith Mackay, World Bank Independent Evaluation Group, 2007

A resource designed particularly for Governments in developing countries seeking to strengthen their monitoring and evaluation systems, this publication includes promising monitoring and evaluation system practice, as well as diagnostic guides, examples of evaluations and other tools for strengthening the monitoring and evaluation systems of Governments. The efforts to build monitoring and evaluation systems of Chile, Colombia and Australia, in particular, are considered, and Africa is given attention as a special case.

The report can be downloaded in English at:
www.worldbank.org/ieg/ecd/better_government.html

Monitoring and Evaluation: Some Tools, Methods and Approaches

World Bank Independent Evaluation Group, 2004

This booklet provides an overview of monitoring and evaluation tools, methods and approaches, including data collection methods, analytical frameworks and types of evaluation and review. The purpose, use, advantages and disadvantages, costs, skill requirements, time requirements and key references are provided for:

- Performance indicators
- The logical framework approach
- Theory-based evaluation
- Formal surveys
- Rapid appraisal methods
- Participatory methods
- Public expenditure tracking surveys
- Impact evaluation
- Cost-benefit and cost-effectiveness analysis

The booklet is available in Arabic, English, French, Portuguese, Russian and Spanish, at:
www.worldbank.org/ieg/ecd/me_tools_and_approaches.html

Network on Development Evaluation of the Development Assistance Committee

The Network on Development Evaluation is a subsidiary body of the Development Assistance Committee supported by the secretariat of the Organization for Economic Cooperation and Development. Its purpose is to increase the effectiveness of international development programmes by supporting their independent evaluation. The network offers a range of publications and documents (including best practice, guidance documents and manuals to facilitate monitoring and evaluation), as well as a glossary of key terms in evaluation, in Chinese, English, French, Italian, Japanese, Portuguese, Russian and Spanish.

The glossary of terms is available at:

www.oecd.org/findDocument/0,2350,en_2649_34435_1_119678_1_1_1,00.html

Publications and documents of the Network on Development Evaluation are available at:

www.oecd.org/findDocument/0,3354,en_2649_34435_1_1_1_1_1,00.html

Evaluation Cooperation Group

The Evaluation Cooperation Group was founded by heads of evaluation in multilateral development banks to strengthen evaluation, share lessons, disseminate information, harmonize performance indicators and evaluation methodologies, enhance collaboration between multilateral development banks and bilateral and multilateral development organizations, and facilitate the involvement of borrowing member States in evaluation and build their evaluation capacity.

The members of the Evaluation Cooperation Group are the evaluation entities of the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the International Monetary Fund and the World Bank. The United Nations Evaluation Group and the Evaluation Network of the Development Assistance Committee of the Organization for Economic Cooperation and Development are observer members.

More information about the Evaluation Cooperation Group, as well as links to members and resources can be found at:

https://wpqp1.adb.org/QuickPlace/ecg/Main.nsf/h_Toc/73ffb29010478ff348257290000f43a6

United Nations Evaluation Group

The United Nations Evaluation Group has issued Norms and Standards (see above) that provide a reference for strengthening, professionalizing and improving the quality of evaluation in the United Nations system. These norms reflect respect for rights, international values and principles, universality and neutrality, and international cooperation.

The United Nations Evaluation Group Norms and Standards are available in Chinese, English, French, Russian and Spanish at:

www.uneval.org

Other recommended resources

Government of Australia, Australian Agency for International Development, *AusGuideline 3.3 The Logical Framework Approach* (2005), www.ausaid.gov.au/ausguide/pdf/ausguideline3.3.pdf

European Commission Humanitarian Aid Department, *Aid Delivery Methods, vol. 1, Project Cycle Management Guidelines* (2004), http://europa.eu/europeaid/multimedia/publications/publications/manuals-tools/t101_en.htm

Search for Common Ground, *Designing for Results: Integrating Monitoring and Evaluation in Conflict Transformation Programs* (2006), www.sfcg.org/documents/manualpart1.pdf

Swedish International Development Cooperation Agency (Sida):

www.sida.se/?d=121&language=en_us

USAID:

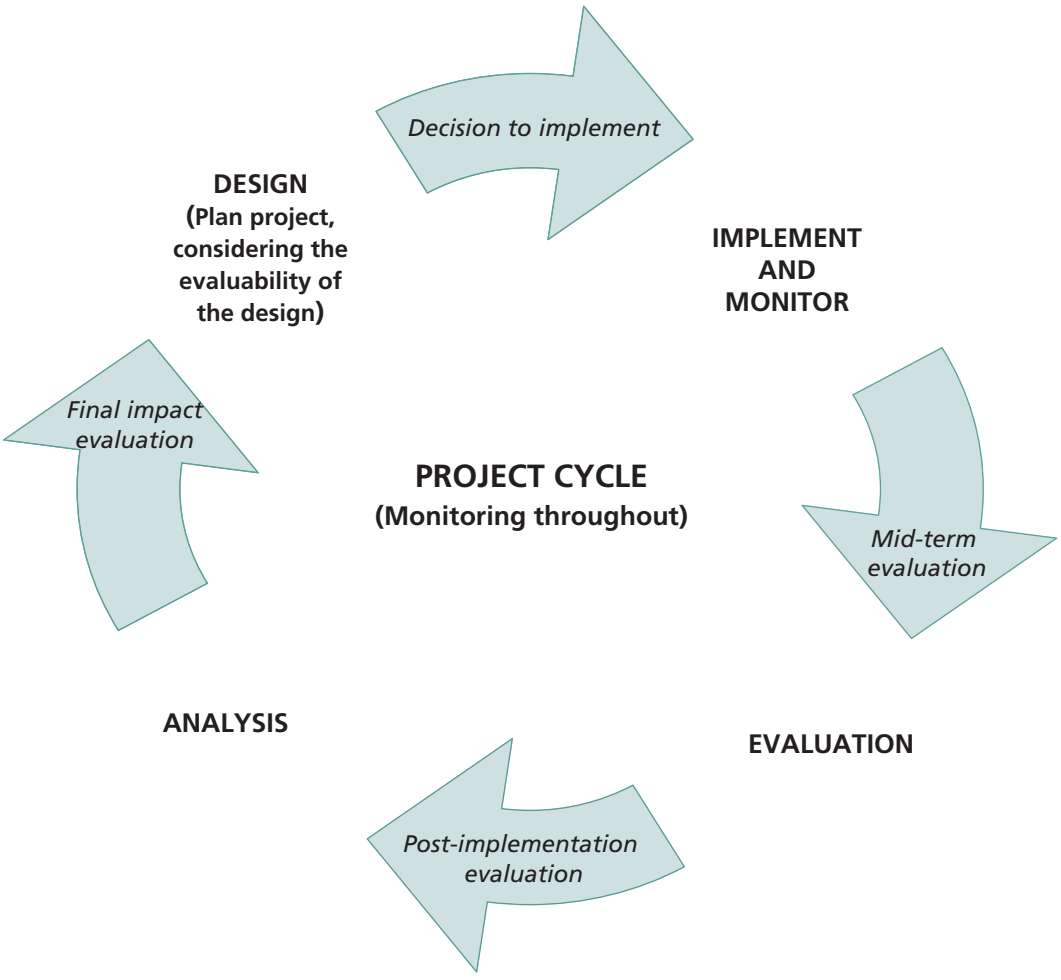
www.usaid.gov

Tool 10.2 Monitoring and evaluation in the project cycle

Overview

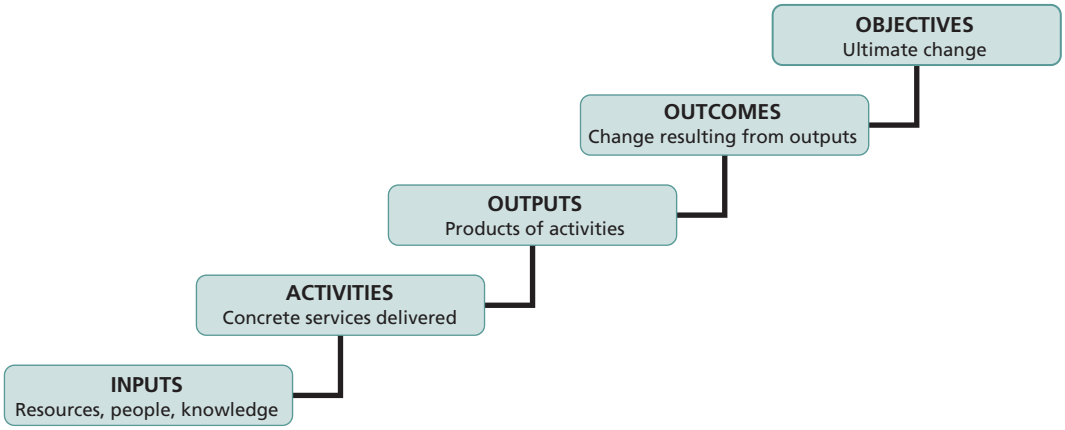
This tool provides an overview of monitoring and evaluation throughout the project cycle.

A project is a set of interrelated activities which are designed to achieve specific objectives, with the available resources and within a specific time frame. The project cycle is a tool for understanding the tasks and functions that must be performed in the lifespan of a project. Commonly, a project cycle contains stages of design, implementation, monitoring and evaluation.



Hierarchy of objectives (logic model)

A good project design shows the "steps" between the activities and the final impact or goal. The existence of these "layers" allows for the progress of the project to be monitored along the way.



Tool 10.3 Logical framework

Overview

This tool offers an explanation of the basic logical project framework (log frame) used in relation to planning, designing, implementing, monitoring and evaluating anti-trafficking and other projects.

What is a "log frame"?

A log frame is a tool for improving the planning, implementation, management, monitoring and evaluation of projects. The log frame is a way of structuring the main elements in a project and highlighting the logical linkages between them.

Simple log frame				
Objectives and outcome	**Outputs and key activities**	**Indicators**	**Means of verification**	**Important assumptions**
Objective: Describe what the target group will achieve if it changes its behaviour (in some cases this is a tangible benefit, in other cases, this is a step towards a future benefit at a higher level)				
Outcome: Describe the desirable future behaviour of the target groups—in which way the target groups will use the potentials described in the outputs (e.g. application of knowledge, adoption of practices, use of technology, etc.)				
Outputs: Describe potentials (technical or human resource potentials) established by the project				
Major activities: Describe major activities which need to be implemented in order to accomplish each of the outputs. (Activities must be realistically defined considering the resources available.)				

⇨ If activities are implemented, will outputs be produced?

⇨ If outputs are produced, will outcomes result?

⇨ If outcomes result, will the objectives be achieved?

⇨ Will the objectives achieved contribute to the larger goal?

Log frame matrix of the Department for Internatioal Development of the United Kingdom

Project structures	Indicators of achievement	Means of verification	Important risks and assumptions
Goal			
What are the wider objectives which the activity will help achieve? Longer-term programme impact	What are the quantitative measures or qualitative judgements whether these broad objectives have been achieved?	What sources of information exist or can be provided to allow the goal to be measured?	What external factors are necessary to sustain the objectives in the long run?
Purpose			
What are the intended immediate effects of the programme or project? What are the benefits, to whom? What improvements or changes will the programme or project bring about? The essential motivation for undertaking the programme or project	What are the quantitative measures or qualitative judgements by which achievement of the purpose can be judged?	What sources of information exist or can be provided to allow the achievement of the purpose to be measured?	What external factors are necessary if the purpose is to contribute to the achievement of the goal?
Outputs			
What outputs (deliverables) are to be produced in order to achieve the purpose?	What kind and quality of outputs and by when will they be produced?	What are the sources of information to verify the achievement of the outputs?	What are the factors not in the control of the project which are liable to restrict the outputs achieving the purpose?
Activities			
What activities must be achieved to accomplish the outputs?	What kind and quality of activities and by when will they be produced?	What are the sources of information to verify the achievement of the activities?	What factors will restrict the activities from creating the outputs?

Source: Department for International Development of the United Kingdom, *Tools for Development: a handbook for those involved in development activity* (2002):

www.dfid.gov.uk/pubs/files/toolsfordevelopment.pdf

Tool 10.4 How to plan and conduct an evaluation

Overview

This tool provides an overview of the three steps of the evaluation process, offers guidelines for developing "terms of reference" for an evaluation and provides an overview of the contents of an evaluation report.

Overview of the evaluation process

STEP 1 Planning the evaluation	STEP2 Undertaking the evaluation	STEP 3 Using the evaluation
1. Clarify purpose 2. Responsibilities 3. Evaluation workplan 4. Verification of the budget 5. Core learning partnership 6. Evaluation questions 7. Terms of reference 8. Selection of consultants 9. Logistics 10. Briefing the evaluation team	1. Involvement of the project manager/ evaluation manager 2. Data collection 3. Draft report 4. Core learning partnership 5. Accommodating stakeholder feedback	1. Consider recommendations 2. Draw up implementation plan 3. Dissemination 4. Internet

Source: UNODC Evaluation Policy and Guidelines.

Guidelines for developing evaluation "terms of reference"

The terms of reference for evaluation define the work that must be carried out by the evaluator or the evaluation team. Evaluators should be independent, that is, they should not have been involved in the design or implementation of the project they are evaluating. The terms of reference must be tailored to specific projects, but generally contain the following:

1. Background information

- Why, when and how the programme was established
- Programme budget

- Main objectives and expected results
- Legislative authority and mandate

2. Evaluation purpose

- Who initiated the evaluation?
- Reason for undertaking the evaluation
- What the evaluation intends to accomplish
- Main stakeholders
- Intended use of evaluation results

3. Evaluation scope

- Time frame
- Geographical coverage
- Thematic coverage
- Evaluation questions

4. Evaluation methods

- Suggested key elements of the methodology to be used

5. Evaluation team

- Size of the evaluation team
- Necessary qualifications for each team member

6. Planning and implementation arrangement

- Management arrangements: consultation with the field and agreements with partners and/or beneficiaries
- Time frame for the whole evaluation process
- Resources required and logistical support needed
- Description of products to be delivered

Overview of the evaluation report

The overall evaluation report will be read by parties to the project. It will be used as a basis for decisions concerning the future of the project and/or other projects and activities. The structure of the report is adapted to particular projects, but should always include findings, conclusions and recommendations.

1. Introduction

- Background and context (summary of overall project concept and design)
- Purpose and objective of the evaluation (to examine mandate, strategies, objectives, relevance, effectiveness, results, impact, sustainability)

- Executing modality (appropriateness and effectiveness of implementation modalities)
- Scope of the evaluation (what the evaluation has addressed, drawn from the terms of reference)
- Evaluation methodology (methods used to collect data)

2. Analysis and major findings

- Overall performance assessment (appropriateness, relevance, effectiveness, efficiency)
- Attainment of objectives (if and how objectives were achieved or not)
- Achievement of programme/project results and outputs (extent to which achievements contributed to objectives and whether they were achieved within the planned time frame and within the available resources)
- Implementation (operational plan, monitoring and backstopping)
- Institutional and management arrangements (whether appropriate and how they affected implementation)

3. Outcomes, impacts and sustainability

- Outcomes (outcomes achieve the project purpose—did the achievement of results have an effect on peoples lives?)
- Impact (positive or negative changes resulting from the project)
- Sustainability (whether benefits will continue beyond the life of the project)

4. Lessons learned

- Lessons (knowledge derived from experience that has the potential to improve action)
- Best practices (what worked well and how it can be replicated)
- Constraints (constraints and problems that had an impact on implementation and how to avoid them in the future)

5. Recommendations

- Issues resolved during the evaluation
- Actions/decisions recommended (suggestions for improving project implementation, management, policy)

6. Overall conclusions (conclusions drawn from the above findings, outcomes, lessons and recommendations)

Annexes

- Terms of reference
- Organizations/places visited and persons met
- Summary assessment questionnaire
- Relevant materials

Tool 10.5 Monitoring and evaluation of projects relating to trafficking in persons

Overview

This tool discusses principles and guidelines specific to monitoring and evaluating projects relating to trafficking in persons and offers an example of such a project and the lessons learned from it. The tool also recommends sources of further information about monitoring and evaluating projects relating to trafficking in persons.

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

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.

. . .

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

. . .

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.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:

www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

Monitoring and evaluation and learning from experience

Terre des Hommes

In its 2007 Handbook on Planning Projects to Prevent Child Trafficking, Terre des Hommes offers the following checklist on monitoring, evaluating and learning from the experience of anti-child-trafficking programmes.

1. Consider monitoring and evaluation at the planning stage, ensuring that systems are established for:

- Monitoring activities
- Evaluating the changes that occur as the result of these activities
- Identifying the impact of these changes on child trafficking and on children's lives
- Exploring any unintended impacts

2. Develop relevant and useful indicators and means of verification against project activities and objectives. Ensure that monitoring and evaluation plans are realistic, useful and cost-effective.

3. Include plans to consult with children and communities in your monitoring and evaluation.

4. Ensure that project planning incorporates lessons learned from other organizations on child trafficking and be prepared to share learning on child trafficking with other agencies and work together to identify good practice.

The *Handbook on Planning Projects to Prevent Child Trafficking* is available at:

http://tdh-childprotection.org/content/view/158/1

Evaluation of impact of trafficking projects

(Government Accountability Office)

In 2007, the Government Accountability Office of the United States conducted a study on the success of anti-trafficking projects in various countries. The report of the study analyses the means by which these projects are monitored and evaluated and makes recommendations for better measuring performance by modifying project design to clearly identify strategies and their expected outcomes. Overall, the report states, few evaluations that determine impact have been completed, leaving the impact of anti-trafficking interventions in question.

The report notes that anti-trafficking project documents (from a range of projects in a range of countries) often lack monitoring elements, such as targets for measuring performance. Other difficulties mentioned in regard to evaluating the impact of a project are:

- Questionable data on trafficking (including the number of trafficking victims)
- Short time frames and overly broad objectives

To address these concerns, the General Accountability Office makes the following recommendations:

- Develop a logic framework with clear objectives and narrow focus of interventions

  Project activities should be clearly linked to intended outcomes, measurable indicators identified and procedures established for setting and modifying targets

- Determine whether a project is ready to be evaluated. In conducting an "evaluability assessment", evaluators should consider whether:

  The project is large enough, has sufficient resources and has been implemented long enough to make an impact

  The project is reaching its target population

  Project documents specify and clearly link objectives, goals and activities

  Sufficient information exists to determine impact

- Build monitoring and evaluation into the project design

  Project officials should consider how the project will be evaluated before the project is implemented

  Organizations should define the intended impact of the project and how that impact will be measured

- To do this, project beneficiaries must be determined, as must the group to which they would be compared, the data to be collected and the method of analysing that data. Such data must be collected before, during and after implementation.

The above information was extracted from the report of the Government Accountability Office of the United States, *Human Trafficking: Monitoring and Evaluation of International Projects Are Limited, but Experts Suggest Improvements* (GAO-07-1034, July 2007), available at:

www.gao.gov/new.items/d071034.pdf

Recommended resources

Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World

(Global Alliance against Trafficking in Women)

In September 2007, GAATW published a report entitled *Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World*. The report explores the experience of Australia, Bosnia and Herzegovina, Brazil, India, Nigeria, Thailand, the United Kingdom and the United States in the area of trafficking and analyses the impact of their respective anti-trafficking policies and practice on the people living, working and migrating within and across their borders. The report is intended as a contribution towards policies and practice in respect of anti-trafficking around the world and draws attention to the gaps that frustrate efforts to prevent migrating women, children and men from finding themselves in situations of exploitation and trafficking.

The report is available at:

www.gaatw.net

"Measuring responses to trafficking in human beings in the European Union: an assessment manual"

On 21 September 2007, the Directorate-General for Justice, Freedom and Security, a department of the European Commission, issued a working document entitled "Measuring responses to trafficking in human beings in the European Union: an assessment manual" for use at a meeting regarding the European Union Anti-Trafficking Day. The document is intended to enhance the capacity of European Union member States to develop and implement policies and strategies in response to trafficking in persons. A checklist of 55 questions is offered to ascertain whether particular measures have been implemented. The indicators are intended to enable member States to measure their own progress.

annex 1

OVERVIEW OF TOOLS

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Tool 1.1	**Definition of trafficking** This tool provides an overview of the elements that the definition of trafficking in persons comprises.	**2**
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Tool 1.3	**The issue of consent** This tool discusses the role that the consent of the victim plays in the crime of trafficking in persons.	**5**
Instruments against transnational organized crime		
Tool 1.4	**Introduction to the international instruments against transnational organized crime** This tool discusses the need for international instruments to facilitate international cooperation, introduces the United Nations Convention against Transnational Organized Crime and the Protocols, and recommends resources which can facilitate international understanding of the crime of trafficking.	**7**
Tool 1.5	**Implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto** This tool explains how a State becomes a party to the Convention and its Protocols and elaborates on the relationship between these instruments of international cooperation. It also recommends sources of further information on implementation of the Convention and its Protocols.	**11**
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Tool 2.3	**Assessment of the national response** This tool provides examples of assessments carried out to analyse aspects of the existing response to trafficking in persons.	**38**
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Tool 2.7	**National action plans and strategies** This tool contains an overview of responses to trafficking in persons, recommended resources and some examples of national strategies and plans.	**52**
Tool 2.8	**National anti-trafficking rapporteurs** This tool provides examples of anti-trafficking positions which have been created by States to coordinate responses to trafficking and facilitate cooperation, between agencies and internationally.	**63**
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Tool 2.10	**Interregional action plans and strategies** Trafficking in persons that takes place between regions requires an inter-regional response. This tool refers to some promising practice in that regard.	**71**
Tool 2.11	**An international initiative** This tool offers an example of a promising global initiative against trafficking in persons.	**73**
Tool 2.12	**Developing a multi-agency approach to intervention** This tool offers a checklist of the main steps involved in setting up a multi-agency framework and provides guidelines and resources for establishing formal inter-agency collaboration.	**75**

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Tool 2.13	**Developing inter-agency coordination mechanisms** This tool provides examples of inter-agency collaboration mechanisms.	**80**
Tool 2.14	**Capacity-building and training** This tool provides references to training programmes and materials. For more training materials, refer also to Tool 9.18.	**86**

CHAPTER 3. LEGISLATIVE FRAMEWORK

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Tool 3.5	**Criminalizing the laundering of proceeds of trafficking in persons** This tool discusses the need to criminalize the laundering of the proceeds of trafficking in persons as an important part of a comprehensive anti-trafficking strategy.	**113**
Tool 3.6	**Human rights and anti-trafficking legislation** This tool presents an overview of key principles and documents relating to human rights and anti-trafficking action.	**115**

CHAPTER 4. INTERNATIONAL CRIMINAL JUSTICE COOPERATION

Mechanisms of criminal justice cooperation

Tool 4.1	**Overview of mechanisms of criminal justice cooperation under the Organized Crime Convention** This tool emphasizes the importance of mechanisms of cooperation in combating transnational organized crime, provides a brief overview of such mechanisms and offers some key resources.	**120**
Tool 4.2	**Extradition** This tool discusses extradition, introduces a range of resources to facilitate entering into extradition agreements and making extradition requests, and provides some promising examples of cooperation on extradition.	**124**

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Tool 4.3	**Extradition checklist** This tool provides a checklist for the content of effective extradition requests.	**132**
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Tool 4.6	**International cooperation for the purposes of confiscation** This tool describes the provision of the Organized Crime Convention relating to the confiscation and seizure of proceeds of crime and introduces resources which can assist in the process.	**145**

Methods of law enforcement cooperation

Tool 4.7	**International law enforcement cooperation** This tool discusses aspects of international law enforcement cooperation: • Channels of law enforcement cooperation • Direct bilateral or multilateral contact • Cooperation on information sharing • Expanding contacts between investigators • Cooperation during investigations	**151**
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annex 2

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

Protocol provisions	***Relevant tools***	***Page***
I. General provisions		
Article 1 ***Relation with the United Nations Convention against Transnational Organized Crime***	Tool 1.4 Tool 1.5	7 11

1. This Protocol supplements the Organized Crime Convention. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, mutatis mutandis to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Protocol provisions	*Relevant tools*	*Page*
Article 2 ***Statement of purpose*** The purposes of this Protocol are: *(a)* To prevent and combat trafficking in persons, paying particular attention to women and children; *(b)* To protect and assist the victims of such trafficking, with full respect for their human rights; and *(c)* To promote cooperation among States Parties in order to meet those objectives.	Tool 1.4 Tool 4.1	7 120
Article 3 ***Use of terms*** For the purposes of this Protocol: *(a)* "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; *(b)* The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph *(a)* of this article shall be irrelevant where any of the means set forth in subparagraph *(a)* have been used; *(c)* The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph *(a)* of this article; *(d)* "Child" shall mean any person under eighteen years of age.	Tool 1.1 Tool 1.2 Tool 1.3	2 3 5
Article 4 ***Scope of application*** This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.	Tool 1.4	7
Article 5 ***Criminalization*** 1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally. 2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:	Tool 1.1 Tool 1.5 Tool 3.2	2 11 95

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(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of trafficking in persons

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	Tool 8.16	399
	Tool 8.17	403

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 agains 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.

Protocol provisions	*Relevant tools*	*Page*
Article 7 ***Status of victims of trafficking in persons in receiving States*** 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.	Tool 7.1 Tool 7.2 Tool 7.6	304 313 327
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.	Tool 7.3 Tool 7.4 Tool 7.5 Tool 7.6	320 322 324 327

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III. Prevention, cooperation and other measures		
Article 9	**Chapter IV**	
Prevention of trafficking in persons	Tool 9.1	418
1. States Parties shall establish comprehensive policies, programmes and other measures:	Tool 9.2	423
(a) To prevent and combat trafficking in persons; and	Tool 9.3	426
(b) To protect victims of trafficking in persons, especially women and children, from revictimization.	Tool 9.4	429
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.	Tool 9.5	433
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.	Tool 9.6	435
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.	Tool 9.7	436
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.	Tool 9.8	437
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	Tool 9.13	462
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	Tool 9.17	480
	Tool 9.18	488
	Tool 9.19	494
Article 10	Tool 2.14	86
Information exchange and training	Tool 5.4	181
1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:	Tool 5.12	206
(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;	Tool 5.20	243
(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and	Tool 6.14	298
(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.	Tool 9.18	488
2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the		

Protocol provisions	*Relevant tools*	*Page*
prevention of trafficking in persons. 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. 3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.		
Article 11 ***Border measures*** 1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons. 2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol. 3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of 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 the travel documents required for entry into the receiving State. 4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article. 5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol. 6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.	Tool 5.11 Tool 9.6	200 435
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	Tool 5.11 Tool 9.5 Tool 9.6	200 433 435

Protocol provisions	*Relevant tools*	*Page*
(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.		
Article 13 ***Legitimacy and validity of documents*** At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.	Tool 5.11 Tool 9.5 Tool 9.6	200 433 435
IV. Final provisions		
Article 14 ***Saving clause*** 1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein. 2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.	Tool 1.7 Tool 7.6 Tool 7.9	16 327 338
Article 15 ***Settlement of disputes*** 1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation. 2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court. 3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.	Tool 1.6	14

Protocol provisions	*Relevant tools*	*Page*
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.		
Article 16 ***Signature, ratification, acceptance, approval and accession*** 1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002. 2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article. 3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence. 4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.	Tool 1.6	14
Article 17 ***Entry into force*** 1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization. 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.		

Protocol provisions	*Relevant tools*	*Page*

Article 18
Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19
Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Protocol provisions	*Relevant tools*	*Page*

Article 20
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

annex 3

FEEDBACK FORM

Dear Readers,

This Toolkit is intended as a practical resource for all those involved in efforts to combat trafficking in persons. It is hoped that it will continue to evolve and improve through the input of those who use it.

In the same spirit of cooperation which has guided the process of designing and compiling this resource, we hope that you will take some minutes to provide feedback, advice and recommendations which can make this Toolkit more useful in future.

Please complete and return this feedback form to us at:

Anti-Human-Trafficking Unit
United Nations Office on Drugs and Crime
Vienna International Centre
P.O. Box 500
1400 Vienna, Austria

E-mail: AHTU@unodc.org

Usefulness of the Toolkit

How would you rate the usefulness of the Toolkit in the following areas?	***Very useful***	***Useful***	***Moderately useful***	***Not very useful***	***Useless***	***N|A***
Chapter 1 International legal framework						
Chapter 2 Problem assessment and strategy development						
Chapter 3 Legislative framework						
Chapter 4 Mechanisms of criminal justice cooperation						
Chapter 5 Law enforcement and prosecution						
Chapter 6 Victim identification						

How would you rate the usefulness of the Toolkit in the following areas?	*Very useful*	*Useful*	*Moderately useful*	*Not very useful*	*Useless*	*N/A*
Chapter 7 Immigration status of victims and their return and reintegration						
Chapter 8 Victim assistance						
Chapter 9 Prevention of trafficking in persons						
Chapter 10 Monitoring and evaluation						
Quality of *promising practice*						
Quantity of *promising practice*						
Quality of *recommended resources*						
Quantity of *recommended resources*						
Clarity of the language						
Design and layout						
Overall usefulness of the Toolkit						

Your work

In which sector do you work?	*Please explain*
Policymaking	
Law enforcement	
Judiciary	
Service provision	
Non-governmental organization	
International organization	
Other	

Use of the Toolkit

How do you use or intend to use the Toolkit in you work?	*Please explain*
Policymaking	
Training	
Awareness-raising	
Desk reference	
Other	

Recommended resources

Can you recommend any resources for inclusion in the next edition of this Toolkit?

Promising practices

Can you suggest any promising practices for inclusion in the next edition of this Toolkit?

Other comments

Any other comments:

Thank you for your contribution to the development of the Toolkit.

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