



UNODC

United Nations Office on Drugs and Crime

UN.GIFT

Global I i



Needs Assessment Toolkit on **the Criminal Justice Response to Human Trafficking**

United Nations Office on Drugs and Crime
Vienna

Needs Assessment Toolkit on the Criminal Justice Response to Human Trafficking



UNITED NATIONS
New York, 2010

Acknowledgments

This publication is the result of an expert group initiative implemented by the United Nations Office on Drugs and Crime (UNODC) within the framework of the Global Initiative to Fight Human Trafficking (UN.GIFT).

The publication would not have been possible without financial support from UN.GIFT, a process initiated by the Crown Prince of Abu Dhabi, United Arab Emirates. UNODC would also like to thank the following members of the UN.GIFT Steering Committee for making their experts available for the development of this publication: the International Organization for Migration, the Organization for Security and Cooperation in Europe, the Office of the United Nations High Commissioner for Human Rights and the International Labour Organization.

On 9 and 10 October 2008, UNODC organized an expert group meeting in Vienna. The meeting brought together 18 experts in criminal justice and assessment from international and non-governmental organizations, as well as United Nations agencies, including UNODC.

The following experts attended the meeting: Aminat Tope Abdulrahman (UNODC Office in Nigeria), Luiza Alimova (UNODC Regional Office for Central Asia), Felipe de la Torre (UNODC Regional Office for Mexico and Central America), Vera Gracheva (Organization for Security and Cooperation in Europe), Heather Komenda (International Organization for Migration), Lisa Kurbiel (Department of Peacekeeping Operations of the Secretariat), Julie Kvammen (UNODC headquarters), Dave Newton (consultant, United Kingdom of Great Britain and Northern Ireland), Susanne Nielsen (International Criminal Police Organization (INTERPOL)), Yoshie Noguchi (International Labour Organization), Anne Nyabera (UNODC Regional Office for Eastern Africa), Natalia Ollus (European Institute for Crime Prevention and Control, affiliated with the United Nations), Willem Pretorius (Asia Regional Trafficking in Persons Project), Riikka Puttonen (UNODC headquarters), Geeta Sekhon (UNODC Regional Office for South Asia), Matthew Taylor (Ministry of Justice of Canada) Eleanor Taylor-Nicholson (Global Alliance Against Traffic in Women), Baerbel Heide Uhl (consultant, Germany) and Stephen Wilkinson (Metropolitan Police, United Kingdom). UNODC would like to thank all the experts for their valuable contributions.

UNODC would like to express particular gratitude to the main author of this publication, Ms. Baerbel Heide Uhl, and to Mr. Dave Newton for the development of the training needs assessment questionnaire contained in the annex. Specific thanks go to Ms. Riikka Puttonen, Officer-in-Charge of the Anti-Human Trafficking and Migrant Smuggling Unit at UNODC, and to Ms. Julie Kvammen, Associate Expert in that same unit, for providing expertise and assistance throughout the process of developing this publication. Also essential were the contributions of Silke Albert, Crime Prevention Expert in the UNODC Anti-Human Trafficking and Migrant Smuggling Unit, and other staff members of UN.GIFT and UNODC.

Contents

	Page
Introduction	1
A. Aims of the needs assessment toolkit	1
B. Beneficiaries of the needs assessment toolkit	2
I. Methodology	5
A. How to use the needs assessment toolkit	5
B. Preparing, conducting and concluding a needs assessment ...	6
II. Legal and regulatory framework	11
A. Rationale	11
B. Resources	12
C. Key questions	15
D. Specific questions	16
III. Investigations and court proceedings in cases of trafficking in persons	19
A. Rationale	19
B. Resources	20
C. Key questions	21
D. Specific questions	21
IV. Identification of persons presumed to have been trafficked	27
A. Rationale	27
B. Resources	28
C. Key questions	29
D. Specific questions	29
V. Harmonizing protection of trafficked persons with prosecution of traffickers: cooperation agreements between representatives of civil society and the State	33
A. Rationale	33
B. Resources	34
C. Key questions	35
D. Specific questions	35

	<i>Page</i>
VI. Support and assistance structures for persons presumed to have been trafficked	39
A. Rationale	39
B. Resources	40
C. Key questions	41
D. Specific questions	42
VII. Social inclusion of persons presumed to have been trafficked in origin, destination or third countries	45
A. Rationale	45
B. Resources	46
C. Key question	48
D. Specific questions	48
VIII. National coordination mechanisms: policy formulation, monitoring and evaluation	51
A. Rationale	51
B. Resources	52
C. Key questions	53
D. Specific questions	53
IX. International cooperation	55
A. Rationale	55
B. Resources	56
C. Key questions	59
D. Specific questions	59
X. Prevention	61
A. Rationale	61
B. Resources	62
C. Key questions	63
D. Specific questions	63
XI. Rapid needs assessments in conflict and post-conflict areas	67
A. Rationale	67
B. Resources	67
C. Key questions	68
D. Specific questions	69
<i>Annex</i>	<i>71</i>
Training needs assessment questionnaire	71



Introduction

Trafficking in persons is a complex phenomenon demanding a coordinated and multisectoral approach in order to achieve an effective response. Due to the complexity of the issue, it is often challenging for organizations and Governments to identify the technical assistance required by a country. The development and implementation of measures to strengthen a country's criminal justice response must thus be targeted and based on a proper assessment in order to ensure that a country's needs are met in a way that prioritizes measures that address the most urgent needs, ensures the best use of available resources and fosters synergies where possible while not duplicating work.

A. Aims of the needs assessment toolkit

The aim of this toolkit is to provide comprehensive guidance for assessing the criminal justice response to trafficking in persons in a given State. The toolkit contains a number of components that are crucial for curtailing the crime of trafficking in persons. Due to the fact that this crime has multiple layers, the toolkit broadens the scope of traditional criminal justice responses by including all relevant actors and measures involved in appropriately prosecuting the perpetrators and adequately assisting the victims of trafficking in persons.

The toolkit consists of a standardized and cross-referenced set of tools designed to enable experts from international organizations, non-governmental organizations, national development agencies and other governmental entities, as well as relevant institutions, to conduct a comprehensive or specific assessment of selected aspects of a country's criminal justice response to trafficking in persons. This includes (a) identifying gaps in the existing criminal justice response to trafficking in persons; (b) facilitating the formulation and development of technical assistance projects that adequately respond to the gaps and needs identified; and (c) facilitating the development of indicators for evaluating the impact of technical assistance projects.

This toolkit is not, however, an instrument for monitoring and evaluating ongoing policies against trafficking in persons, including the evaluation of their design, implementation and results. It is therefore recommended that monitoring and evaluation be carried out as follow-up steps, on the basis of the findings of the

assessment. Methodologies and tools for conducting evaluation and monitoring activities can be found in the *Toolkit to Combat Trafficking in Persons*¹ prepared by the United Nations Office on Drugs and Crime (UNODC).

The needs assessment toolkit seeks to complement publications developed by other international organizations on assessing measures against trafficking in persons. Moreover, it complements the UNODC Criminal Justice Assessment Toolkit, as it covers the specifics that need to be taken into consideration in the area of criminal justice responses to trafficking in persons.

The annex to this toolkit contains a training needs assessment questionnaire aimed at law enforcement officers. The questionnaire complements the toolkit's strategic approach by providing those involved in assessments with a tool that enables them to more specifically examine the performance of institutions, units and individuals at the operational level.

Although the questionnaire focuses primarily on training, it also makes it possible to identify issues that may be resolved by, for example, adopting new working practices, introducing managerial interventions or re-organizing departments and units.

The questionnaire can be used simultaneously with the toolkit or after an overall assessment has been completed to assess the specific training needs of a given institution.

B. Beneficiaries of the needs assessment toolkit

The needs assessment toolkit is designed to be used in States that have ratified or acceded to or are in the process of acceding to the United Nations Convention against Transnational Organized Crime² and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,³ as well as in States lacking official statistics on and legislation against trafficking in persons. It provides sufficient flexibility to conduct assessments both in places where a solid infrastructure for combating trafficking in persons exists and in places with few or no such measures. Specifically, it will serve the following:

- Governments, by providing them with a sound understanding of their criminal justice responses to trafficking in persons and shortcomings in those responses

¹United Nations publication, Sales No. E.08.V.14.

²United Nations, *Treaty Series*, vol. 2225, No. 39574.

³*Ibid.*, vol. 2237, No. 39574.

- Non-governmental, civil society and international organizations, by assisting them in assessing the degree to which responses provided by States meet existing international human rights obligations
- Specialized law enforcement institutions, by assisting them in reviewing and assessing their own activities
- Judicial and prosecutorial authorities, by assisting them in reviewing and assessing their own activities
- Governmental and international entities, as well as non-governmental organizations and civil society actors, by assisting them in establishing and improving support for, assistance to and protection of persons presumed to have been trafficked, including by protecting witnesses
- Governmental entities and international organizations, by enabling and improving cross-border law enforcement and judicial cooperation
- Donors, by enabling and improving the purposeful funding of activities against trafficking in persons
- International and national entities, by assisting them in elaborating in-depth and comparable analyses of States' responses



I. Methodology

A. How to use the needs assessment toolkit

The toolkit consists of 10 substantive chapters, in addition to the current chapter on methodology, reflecting a corresponding number of areas of interventions that together should embody an effective and comprehensive criminal justice response to trafficking in persons. These areas correspond to international standards, particularly those contained in the Organized Crime Convention and the Trafficking in Persons Protocol.

For each area of intervention, the needs assessment toolkit provides corresponding questionnaires to guide those carrying out the assessment. The purpose of the questionnaire is to act as a checklist to remind those assessing of the important areas that should be taken into account, not to provide an exhaustive list of all relevant questions that could be posed during an assessment.

Each chapter includes a list of key international and regional legal instruments, in addition to a selection of other resources.

The toolkit can be used for different purposes and by different actors. In all cases, however, a person or entity with overall responsibility for the entire assessment should be identified early on in the process. If the assessment is initiated by the representative of a governmental, international or intergovernmental organization, a department and coordinating person should be assigned to coordinate. If the assessment is initiated by non-governmental organizations, a regional or national network could designate a non-governmental organization to be responsible for these purposes. An assessment could, however, also be launched by an individual expert serving an academic research institution or conducting an independent evaluation of efforts against trafficking in persons.

Once an organization and/or responsible individual have been assigned and funding has been ensured, the preparatory phase of the assessment process can begin.

B. Preparing, conducting and concluding a needs assessment

Preparing the assessment

During the initial stage of the assessment, the organization or individual carrying out the assessment must decide on the specific purpose and outline of the assessment. A preparatory desk review must then follow, as well as an analysis of the relevant stakeholders and the identification of contact points.

Purpose of the assessment

The needs assessment toolkit provides a set of interventions and corresponding chapters that, together, reflect a comprehensive strategy against trafficking in persons in order to ensure an effective criminal justice response. An assessment does not, however, have to touch upon all areas of intervention. The purpose might be to either look into one specific area in detail or appraise an overall strategy in more general terms.

Therefore, a decision has to be made at the planning stage by those carrying out the assessment, in close cooperation with the relevant partners, donors and/or initiators, on the overall purpose of the assessment. In addition, the following factors need to be determined (the findings of the preparatory desk review may be used to fine-tune plans):

- The number of stakeholders to be interviewed
- The quality and nature of data to be collected
- The structure of the assessment report
- The number of missions to the State being assessed
- The timeframe of the overall endeavour

Preparatory desk review

The preparatory desk review should be carried out before conducting an assessment mission. During the review phase, existing data and information concerning the State being assessed should be evaluated against the overall purpose of the assessment. The desk review has to be performed in a comprehensive way due to the complex nature of the phenomenon of trafficking in persons.

It is believed that the incidence of trafficking in persons is underreported due to the clandestine nature of the crime. Victims tend to remain silent about their suffering for many reasons, including for fear of being prosecuted and/or deported

due to their irregular immigration status. In addition, perpetrators may threaten and coerce victims and/or their loved ones. As a result, it remains difficult to properly document the crime. Because of this, information on trafficking in persons is often collected and catalogued inconsistently and incompletely.

In order to reach accurate conclusions during an assessment, information has to be classified according to its reliability and transparency. While anecdotal reports and information disseminated by the media should be taken into account during the assessment, they should not be confused with or replace more reliable sources of information.

The desk review should be guided by the following key questions: (a) are there specific data on trafficking in persons generated by public authorities or other stakeholders? and (b) are there non-specific but nonetheless relevant data on trafficking in persons?

Once an overall mapping of the existing data situation has been finalized, a subsequent analysis should be carried out on the basis of the following specific questions:

(a) *Is the assessment based on specific data on trafficking in persons?* Specific data includes research findings and other information collected by international organizations, anecdotal evidence gathered by anti-human trafficking stakeholders, national criminal statistics, other crime-related statistics, statistics collected by international, governmental and non-governmental providers of services to victims of trafficking in persons (for example, in the form of annual statistics and annual reports), the national rapporteur, international treaty mechanisms, Governments, regional organizations and international human rights organizations involved in monitoring, academia (national or local universities and other countries' universities), the media and others;

(b) *Are non-specific data on trafficking in persons (and related issues) included in the assessment?* Such non-specific data could be collected by juvenile institutions, criminal justice institutions, trade unions, labour inspectorates, business associations, private employment agencies, labour and civil courts and justice institutions. The data could also come from authorities dealing with migrants (including foreign migrants apprehended in the territory of a given State, refugees, asylum-seekers and repatriated migrants) and migration-related issues (including the refusal of entry by border control officers), authorities dealing with issues such as violence against women, unaccompanied minors and ethnic minorities, civil society organizations (non-governmental actors representing, for example, migrants, ethnic minorities and women) and others.

Analysis of stakeholders

As a second step, all relevant stakeholders that are indispensable for the assessment and potential interviewees should be identified.

Depending on whether the assessment is to be broad or relatively specific, the following might be considered stakeholders:⁴

- (a) Law enforcement authorities (general and specialized units);
- (b) Frontline officers dealing with immigration, customs, border control, social service provision, labour inspection, police patrols, detention and paralegal service provision;
- (c) Prosecutors, judges and other members of the judiciary;
- (d) Government entities, including mandated bodies, ministries with responsibilities with regard to trafficking in persons (ministry of justice, ministry of internal affairs), health service providers and Government-run shelter managers;
- (e) Civil society (including non-governmental organizations);
- (f) International organizations;
- (g) Existing mechanisms (including national task forces, intragovernmental working groups on trafficking in persons, etc.);
- (h) Main donors other than the Government.

Identification of contact point(s)

Once the stakeholders have been identified, a contact point in the respective institutions should also be identified, to support the assessment. A national contact point might assist in updating the data collected. In addition, it might be helpful to appoint a local administrator to support efforts to identify stakeholders and set up meetings.

Conducting the assessment

The assessment should be conducted in close cooperation with the identified contact point(s) in a given country and in line with the agreed outline for the assessment report.

During the assessment, interviews should be set up with all the relevant stakeholders that have been identified. Should it not be feasible to conduct interviews on a one-on-one basis, the possibility of arranging a meeting attended by all relevant stakeholders should be considered. Alternatively, two or three meetings bringing together representatives of similar institutions could be arranged.

⁴Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons—A Practical Handbook* (Warsaw, 2004).

The interviews should be conducted using neutral and non-judgmental language. The questions contained in the annex to this toolkit should be used as a basis. The questions should be posed in such a way as to elicit open answers, avoiding “yes” and “no” answers. Although the questionnaire in the annex only includes closed questions, the information on the effectiveness of measures should be elicited by asking respondents for supporting evidence. Interviewers should use professional judgment as to when to do this.

It is recommended that the following three kinds of assessment be done:

(a) *Assessment of the infrastructure.* The needs assessment toolkit can be used as the basis for designing a questionnaire that will help to assess the existing legal, logistical and financial infrastructure related to combating trafficking in persons;

(b) *Quantitative assessment.* The relevant categories from the first step will be followed up by quantitative questions, such as “How many persons receive counselling per month?” and “How often does the multidisciplinary round table meet?”;

(c) *Qualitative assessment.* Finally, the opinion of the interviewee should be considered by asking him or her if he or she thinks the given structure/law/process is effective and comprehensive.

Conclusions and assessment report

The outcome of the desk review and the actual assessment should be documented in a report.

Drafting the report

The report should contain information on the stakeholders interviewed and the findings of the interviews. Reference should be made to the institutions/organizations that provided information rather than to the individuals interviewed. The findings of the desk review should be included in the report.

Drawing conclusions

The conclusions should be based on the outcome of the interviews, the country assessment and the desk review. For the sake of transparency, the bases for drawing the conclusions should be explained. Conclusions determine the actual needs of a country and may be drawn by evaluating the existing legal infrastructure and the degree to which relevant laws are implemented in accordance with international standards and legal provisions. Another set of conclusions might be based on the potential disagreement between policies that have been backed officially and policies that have actually been implemented.

Distributing the report

The assessment report should be distributed to all organizations/institutions that collaborated in the assessment process. If the report contains sensitive information, the option of producing a classified version in addition to a public version could be considered.

A photograph of a young child sitting on a light-colored, textured surface, possibly a sidewalk or pavement. The child is looking down at the ground. To the right of the child, there is a hand-drawn grid of squares on the pavement. A hand holding a black marker is visible, drawing a checkmark inside one of the squares. The image is faded and serves as a background for the title.

II. Legal and regulatory framework

A. Rationale

The international legal and regulatory framework against trafficking in persons has emerged from a complex set of legal developments and has undergone a multitude of changes during the past century. In the early years of the twentieth century, trafficking in persons was referred to as “white slave traffic” and was defined as “the procuring of women or girls for immoral purposes abroad”.⁵ During the following decades, trafficking in persons was addressed in different ways through different treaties, each with its own focus. This included conventions on forced labour,⁶ sexual exploitation and prostitution,⁷ discrimination and violence against women,⁸ children,⁹ migration¹⁰ and transnational organized crime.

By ratifying the Organized Crime Convention and the Trafficking in Persons Protocol, the international community agreed on the first international, legally binding definition of trafficking in persons. The definition recognizes that women, men and children can be trafficked and that trafficking takes place for a wide range of forms of exploitation, including, 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.

⁵International Agreement for the Suppression of the White Slave Traffic of the League of Nations (1904).

⁶Convention concerning the Abolition of Forced Labour, 1957 (Convention No. 105), of the International Labour Organization (United Nations, *Treaty Series*, vol. 320, No. 4648) and Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29), of the International Labour Organization (United Nations, *Treaty Series*, vol. 39, No. 612).

⁷Convention for the Suppression of the Traffic in Persons and of the Exploitation and Prostitution of Others (United Nations, *Treaty Series*, vol. 96, No. 1342).

⁸Convention on the Elimination of all Forms of Discrimination against Women (United Nations, *Treaty Series*, vol. 1249, No. 20378).

⁹Convention on the Rights of the Child (United Nations, *Treaty Series*, vol. 1577, No. 27531) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (United Nations, *Treaty Series*, vol. 2171, No. 27531).

¹⁰International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (United Nations, *Treaty Series*, vol. 2220, No. 39481).

The Trafficking in Persons Protocol was the first international instrument establishing trafficking in persons as a criminal offence. In addition to requiring States parties to criminalize such trafficking, the Protocol also requires States parties to criminalize the attempt to commit the crime, the participation as an accomplice in the crime and the organization or directing of other persons to commit the crime (art. 5).

In order to address the complexity of the crime, it is of utmost importance that States ratify the Trafficking in Persons Protocol and all related international treaties and that they take the steps necessary to fully implement them through the development of national laws. National legislation should ensure that trafficking in persons and related crimes are criminalized and that the serious human rights abuses committed against victims are met with appropriate remedies. At the same time, States should guarantee the protection of victims and provide them with support.

In addition to the international legal instruments, various regional legal instruments have been formulated over the past decades. It is essential that States ratify and implement relevant regional instruments covering their State and addressing the various elements of prevention and prosecution of trafficking in persons and protection of the victims of that crime.

The present chapter seeks to establish whether national legislation for countering trafficking in persons is in place in a given country and, if it is, what such legislation encompasses. In addition, specific aspects of relevant national legal frameworks are addressed in other chapters of the needs assessment toolkit, in line with each chapter's specific focus.

B. Resources

A selection of relevant resources, including key international and regional legal instruments, General Assembly resolutions and tools developed by UNODC, are listed in box 1.

Box 1. Selected resources on the legal and regulatory framework for addressing trafficking in persons

Key international and regional legal instruments

United Nations Convention against Transnational Organized Crime

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Convention concerning forced or compulsory labour, as modified by the Final Articles Revision Convention, 1946 (Convention No. 29), of the International Labour Organization, articles 1 and 4

Convention concerning the abolition of forced labour (Convention No. 105), of the International Labour Organization, articles 1-2

Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (Convention No. 182), of the International Labour Organization

Convention concerning minimum age for admission to employment (Convention No. 138), of the International Labour Organization

Convention concerning migration for employment (Convention No. 97), of the International Labour Organization

Convention concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers (Convention No. 143), of the International Labour Organization

Convention concerning private employment agencies (Convention No. 181), of the International Labour Organization

Convention concerning labour inspection in industry and commerce (Convention No. 81), of the International Labour Organization

Slavery Convention of 1926 and the Protocol amending that Convention

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

Convention on the Elimination of all Forms of Discrimination against Women, article 6

Convention on the Rights of the Child, articles 11, 19, 32-34 and 36

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, articles 8, 11, 16-17 and 39

Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

International Convention on the Elimination of All Forms of Racial Discrimination

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, article 4

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

American Convention on Human Rights, article 6

Arab Charter on Human Rights, article 10

African Charter on the Rights and Welfare of the Child, article 29

Council of Europe Convention on Action against Trafficking in Human Beings

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

Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, of the South Asian Association for Regional Cooperation, article 4

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

Bangkok Declaration on Irregular Migration

Brussels Declaration on Preventing and Combating Trafficking in Human Beings

Nasonini Declaration on Regional Security, of the Pacific Islands Forum

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"

Resolution 62/175 of 18 December 2007, entitled “Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity”

Resolution 63/194 of 18 December 2008, entitled “Improving the coordination of efforts against trafficking in persons”

Other resources

United Nations Office on Drugs and Crime, *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)

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14)

United Nations Office on Drugs and Crime, *Model Law against Trafficking in Persons* (2009)

United Nations Office on Drugs and Crime/Global Initiative to Fight Human Trafficking, *Combating Trafficking in Persons: A Handbook for Parliamentarians* (United Nations publication, Sales No. E.09.V.5)

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

Economic and Social Council resolution 2008/33 entitled “Strengthening coordination of the United Nations and other efforts in fighting trafficking in persons”

C. Key questions

1. Does the State’s legal framework address all elements of the crime of trafficking in persons as set forth in the Trafficking in Persons Protocol?
2. Does the State’s legal framework address areas relevant to the prevention and prosecution of trafficking in persons and the protection of the victims of such trafficking by, for example, prohibiting forced labour, slavery, sexual exploitation, discrimination against women, violence against women and violations of migrants’ and children’s rights?

D. Specific questions

1. Has the State signed and ratified/acceded to any of the international legal instruments listed in box 1?
2. Has the State signed and ratified/acceded to any of the applicable regional legal instruments listed in box 1?
3. Does the State have national laws against trafficking in persons?
4. Does the State have a single comprehensive law against trafficking in persons or specific provisions included in other laws?
5. Does national legislation criminalize trafficking in persons in all its forms and provide for penalties in accordance with international and/or regional standards?
6. Are trafficking-related offences such as (but not limited to) forced labour, slavery or servitude, forced marriage, sexual exploitation or debt bondage criminalized under national legislation?
7. Does national law include a definition of trafficking in persons that is relevant to that State's specific context and consistent with the three constituent elements of the definition in the Trafficking in Persons Protocol (act, means and purpose of exploitation)?
8. Does national law criminalize trafficking in women, men and children, both when committed domestically and across borders?
9. Does national law criminalize trafficking in persons for the purpose of all forms of exploitation, including the exploitation of the prostitution of others and other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs?
10. Does national law consider the recruitment, transportation, transfer, harbouring or receipt of children, in other words persons under 18 years of age, for the purpose of exploitation to be trafficking in persons?
11. Does the notion of exploitation also cover the exploitation of child labour?
12. Does national law criminalize the following:
 - (a) Participation in an organized criminal group?
 - (b) The attempt, participation as an accomplice, directing, organizing or financing of trafficking in persons and related offences?
 - (c) Conspiracy/association; aiding or abetting; money-laundering or laundering of proceeds of crime; corruption involving public officials or international civil servants; obstruction of justice; forgery, withholding, destroying etc. of identification and travel documents?

- (d) Unlawful disclosure of the identity of a victim or witness?
 - (e) Forced labour, slavery-like practice or servitude?
 - (f) The use of the labour or services of a victim of trafficking or forced labour?
- 13. Does national law have jurisdiction in the following cases:
 - (a) An offence is committed within national boundaries or on board a vessel or aircraft registered under that State's law?
 - (b) The victim is a national of that State?
 - (c) The offender is a national of that State or a stateless person having his or her habitual residence in the territory of that State?
 - (d) The offender is a national of that State or habitual resident and extradition is refused on grounds of nationality?
 - (e) The offender is a national of that State or a habitual resident and extradition is refused?
 - (f) The offence is committed outside the national boundaries of that State with a view to committing an offence within the territory of the State?
- 14. Does national law recognize trafficking in persons as an extraditable offence?
- 15. Does national law provide for the prosecution of the alleged offender if extradition is refused on grounds of nationality?
- 16. Does the law provide for the following:
 - (a) The liability of legal persons?
 - (b) The establishment of trafficking in persons and other offences covered by the Organized Crime Convention as predicate offences?
 - (c) Non-liability/non-punishment provisions for victims of trafficking in persons?



III. Investigations and court proceedings in cases of trafficking in persons

A. Rationale

Trafficking in persons is a complex crime comprising a multitude of different criminal elements. This makes appropriate and effective investigations very challenging. Moreover, the way that the media portray trafficking in persons often creates stereotypes of both victims and offenders that criminal justice authorities must overcome in order to pursue intelligence-led investigations and prosecution techniques.

Investigating the crime of trafficking in persons involves different investigative methods, predominantly reactive, proactive or disruptive. It is a time and resource-intensive process that often requires domestic and international cooperation among different agencies, as well as parallel financial investigations.

Moreover, as it is common for victims to have been traumatized, isolated and threatened, investigators must treat victims and witnesses carefully. Reducing the criminal justice systems' dependency on victims' testimony is important for increasing the number of intelligence-led proactive investigations aimed at gathering corroborating evidence.

Due to the complexity of investigating cases of trafficking in persons, it is recommended that States have specialized anti-human trafficking law enforcement units in place. However, it is also important that guidelines and access to basic investigative and identification techniques be available to all front-line police units.

The role of the prosecutor has to be clearly analysed. In many criminal justice systems, the prosecutor is in charge of initiating and supervising criminal proceedings. Therefore, the competent authority in charge of prosecution should continuously be aware of the complexities related to trafficking in persons.

In addition, prosecutors and judges play an important role in ensuring that the victim is not further traumatized through the criminal court proceedings.

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 2.

Box 2. Selected resources for investigations and court proceedings in cases of trafficking in persons

Key international and regional legal instruments

United Nations Convention against Transnational Organized Crime, articles 23 and 24

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 5, 6 and 10

Council of Europe Convention on Action against Trafficking in Human Beings, article 10

Other resources

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009)

United Nations Office on Drugs and Crime, *Criminal Justice Assessment Toolkit* (2006)

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14)

United Nations Office on Drugs and Crime, *Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime* (2008)

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex)

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guideline 5

International Organization for Migration, *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking* (2006)

Association of Southeast Asian Nations, *Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines* (2007)

Association of Southeast Asian Nations, *ASEAN Responses to Trafficking: Ending Impunity for Traffickers and Securing Justice for Victims* (2006)

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons — A Practical Handbook* (Warsaw, 2004), chapter 2, page 16

United Nations Office on Drugs and Crime, *Assistance for the Implementation of the ECOWAS Plan of Action against Trafficking in Persons: Training Manual* (2006)

International Centre for Migration Policy Development, *Regional Standard for Anti-Trafficking Training for Judges and Prosecutors in SEE* (2004)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Training Manual for Prosecutors on Confronting Human Trafficking* (2008)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Standard Operating Procedures on Investigating Crimes of Trafficking for Commercial Sexual Exploitation* (2007)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Compendium on Best Practices on Anti-Human Trafficking by Law Enforcement Agencies* (2007)

C. Key questions

1. How many investigations, prosecutions and convictions for crimes related to trafficking in persons are carried out in the country?
2. Are there specialized law enforcement units, prosecutors' offices and other judicial representatives that deal solely with trafficking in persons?
3. Are there mechanisms, including regular training and capacity-building, to ensure a sound understanding of the complexity of the crime in every mandated sector, including law enforcement units, prosecutors' offices and other judicial entities?
4. Are there mechanisms in place encouraging cooperation between law enforcement officers, prosecutors and judges involved in cases of trafficking in persons?

D. Specific questions

General law enforcement

1. Has the police structure (at the federal or central level) been mapped out and is such information available?

2. Are front-line officers sufficiently equipped and adequately funded to ensure an appropriate police response?
3. Does the policing structure include measures such as community policing on a regular basis?

Law enforcement activities

4. Have measures been implemented to do the following:
 - (a) Establish a regime for banks and financial institutions to deter and detect money-laundering?
 - (b) Ensure that authorities dedicated to combating money-laundering have the ability to cooperate and exchange information both at the national and international levels?
 - (c) Detect and monitor cross-border cash flows?
 - (d) Promote the integrity and prevent, detect and punish the corruption of public officials?
 - (e) Ensure effective action to prevent, detect and punish the corruption of public authorities?
 - (f) Ensure the quality and integrity of travel or identification documents and prevent their unlawful creation, issuance or use?
 - (g) Verify the legitimacy and validity of travel or identification documents issued in the State's name and suspected of being used for trafficking in persons?
 - (h) Strengthen border controls, as may be necessary, to prevent and detect trafficking in persons?
 - (i) Prevent commercial carriers from being used to traffic persons?
 - (j) Establish the obligation for commercial carriers to ascertain that all passengers possess proper travel documents, including by establishing sanctions for non-compliance with such obligations?
 - (k) Allow for persons implicated or suspected of being implicated in trafficking in persons to be denied entry into the country or for having the visas of such persons revoked?
 - (l) Strengthen cooperation among border control agencies?

Specialized law enforcement units

5. Are crime investigation authorities sufficiently equipped and adequately funded to ensure appropriate personnel and technical equipment, including the

establishment of specialized trafficking in persons investigation units and other related specialized units (organized crime units etc.)?

6. Are these units specially trained and do they have access to specialized guidelines or specialist assistance in the following areas:

- (a) Proactive investigations;
- (b) Disruptive investigations;
- (c) Crime scene investigations;
- (d) Reactive investigations;
- (e) Information and evidence gathering;
- (f) Undercover techniques;
- (g) Use of informants;
- (h) Interviewing techniques;
- (i) Special treatment for children, including specialized interview and videoconferencing techniques;
- (j) Use of the media;
- (k) Databases;
- (l) International law enforcement cooperation, including through the establishment of joint investigation teams, and intelligence gathering and exchange;
- (m) Preparing for charge and trial;
- (n) Freezing, seizing and confiscating assets.

7. In the absence of specialized law enforcement units, are general investigative officers trained in any of the matters referred to in question 6?

8. Do specialized units have responsibility for the whole territory of the State? If not, do they provide advisory services for investigations carried out by non-specialized law enforcement officials?

Gathering evidence

9. Does national law permit the use of specialized evidence-gathering techniques (such as the use of undercover officers, human and technical surveillance, interception of communications and controlled deliveries) and does it admit such evidence in court? (On the issue of law enforcement cooperation with civil society actors, see also chapter V on harmonizing protection of trafficked persons with prosecution of traffickers: cooperation agreements between representatives of civil society and the State.)

Prosecutors and judges

10. Are there prosecutors, judges and other judicial officers that focus solely on trafficking in persons? The following related issues could possibly be considered: caseload management, case management and sustainability of funding.

11. In the absence of specialized prosecutors, judges and judicial officers, do prosecutors, judges and judicial officers receive training on issues related to trafficking in persons and applicable laws?

12. Are there mechanisms in place to provide prosecutors, judges and judicial officers who only come across cases of trafficking in persons occasionally with access to relevant expertise?

13. Has the judicial system established procedures that meet the specific needs of victims testifying in court proceedings while ensuring a fair trial for the defendant? Issues to be considered include the following:

- (a) Court services;
- (b) Interpretation services, including for the victim, investigators, prosecutors and judicial officers, to ensure clear communication;
- (c) Special services for victims and witnesses, including counselling services, psychological assessments and psychological and medical support services, provision of accommodation and transportation, and other forms of direct assistance;
- (d) Public or closed hearings;
- (e) Information management;
- (f) Case flow management;
- (g) Trial support (for testifying victims);
- (h) Facilities and equipment;
- (i) Witness protection;
- (j) Physical protection;
- (k) Psychological protection and support;
- (l) Protection from unfair treatment;
- (m) Protection of identity;
- (n) Witness support;
- (o) Exclusion of the defendant;
- (p) Pretrial detention of the suspect;
- (q) Video examination, use of closed circuit television or two-way mirrors;

- (r) Provision of legal counsel to witnesses;
- (s) Victim's legal adviser (as non-joint plaintiff or joint plaintiff);
- (t) Access to legal defence services.

14. Are complaint mechanisms available to assist with ensuring the transparency and accountability of court proceedings?

15. Are there measures in place to prevent the detention of a person presumed to have been trafficked regardless of her or his irregular immigration status? (See chapter VII on social inclusion of persons presumed to have been trafficked in origin, destination or third countries.)

A photograph showing a child sitting on a light-colored, textured surface like pavement. The child is looking down at a grid of squares drawn on the ground. A hand holding a black marker is visible on the right, having just finished drawing a checkmark inside one of the squares. Other squares are scattered around, some with faint markings.

IV. Identification of persons presumed to have been trafficked

A. Rationale

There is a broad variety of stakeholders that may identify persons who might have been trafficked, including criminal justice authorities, non-governmental service providers, social welfare representatives, labour inspectors and even embassy personnel, particularly if they are trained and if a system of cooperation agreements and referral is in place.

It is difficult and time-consuming to identify persons presumed to have been trafficked, because of the multiple layers of the crime and because the traffickers' use and threat of violence against victims often makes victims reluctant to contact the authorities. Additionally, sometimes front-line officers lack resources to identify cases of trafficking in persons and to respond effectively. In a trafficking in persons case, front-line officers are often responsible for identifying victims and ensuring their safety, for collecting and preserving evidence, and for detaining suspects until specialized investigation teams take over the case.

Given these multidimensional aspects of the crime, it is challenging for authorities and others to be able to make on-the-spot decisions regarding the status of a person presumed to have been trafficked. One promising practice has been to refer presumed victims of trafficking in persons to the relevant providers of support and protection services on the basis of the slightest suspicion.

Very often the term “persons presumed to have been trafficked” is used to keep the threshold low for identification processes both in terms of administrative requirements and of defining the actual crime on the spot.¹¹ Once referred to support and protection providers, persons presumed to have been trafficked should have time to recover from the experiences and benefit from a supportive environment that will allow him or her to decide on his or her status and reflect on the procedural and administrative implications of that status.

¹¹Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons—A Practical Handbook* (Warsaw, 2004), pages 17 and 59.

In order to guarantee this low threshold of criteria for identifying a person presumed to have been trafficked, relevant authorities should be entitled to grant such a person a “reflection period”, especially when his or her immigration status is irregular.

Various representatives of governmental and non-governmental entities should be involved in identifying persons who might have been trafficked by, for example, carrying out outreach activities, establishing hotlines and policing communities.

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 3.

Box 3. Selected resources on identifying persons presumed to have been trafficked

Key international and regional legal instruments

Council of Europe Convention on Action against Trafficking in Human Beings, articles 10 and 13

Other resources

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guidelines 2 and 8

United Nations Office on Drugs and Crime, *First Aid Kit for Use by Law Enforcement First Responders in Addressing Human Trafficking* (2009)

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009), module 2

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14), pages 251-303

Anti-Slavery International, *Protocol for Identification and Assistance to Trafficked Persons and Training Kit* (2005)

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex)

International Centre for Migration Policy Development, *Anti-Trafficking Training Material for Frontline Law Enforcement Officers* (2007)

United Nations Development Programme, Law Enforcement Best Practice Manual for Fighting against Trafficking of Human Beings (2003)

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons — A Practical Handbook* (Warsaw, 2004), chapter 2, page 16, and chapter 4, page 59

International Centre for Migration Policy Development, *Regional Standard for Anti-Trafficking Training for Judges and Prosecutors* (2004)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Training Manual for Prosecutors on Confronting Human Trafficking* (2008)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Standard Operating Procedures on Investigating Crimes of Trafficking for Commercial Sexual Exploitation* (2007)

United Nations Office on Drugs and Crime Regional Office for South Asia, *Compendium on Best Practices on Anti-Human Trafficking by Law Enforcement Agencies* (2007)

C. Key questions

1. Do clear standard operating procedures exist, ensuring and regulating front-line officers' appropriate responses in the identification of trafficked persons?
2. Is there a mechanism in place that allows all relevant stakeholders, including law enforcement agencies, civil society actors, governmental bodies and international agencies, to be involved in identifying persons who have been trafficked?
3. Are there procedures that allow a low threshold of access to support and protection structures for all presumed trafficked persons?

D. Specific questions

1. Is there an administrative procedure formally recognizing someone as a "trafficked person" and, as such, entitling such a person to various services and benefits, including a temporary residence permit, health services, shelter and protection? If so, which is the competent authority?

2. Does a procedure by non-governmental actors for identifying persons presumed to have been trafficked include the following:


- (a) Guidelines on victim identification?
- (b) Standardized checklists to facilitate the identification of trafficked persons?
- (c) General indicators?
- (d) Specialized indicators (sexual exploitation, labour exploitation, contemporary forms of slavery, trafficking in organs, etc.)?
- (e) Indicators of trafficking in children?
- (f) Guidelines on interviewing presumed victims of trafficking?
- (g) Outreach work (specialized anti-trafficking outreach work or related issues, such as health care for commercial sex workers, drug users, migrant workers and ethnic minorities)?
- (h) Low-threshold drop-in centres (specialized anti-trafficking centres for sex workers, ethnic minorities, migrants, unaccompanied children and drug users)?
- (i) Hotlines (specialized anti-trafficking hotlines or hotlines for women and children who have suffered violence and for victims of crime. Hotlines can also be run by the Government)?

3. Do governmental actors follow a procedure for identifying persons presumed to have been trafficked that includes the following:

- (a) Guidelines on victim identification?
- (b) Standardized checklists to facilitate the identification of trafficked persons?
- (c) General indicators?
- (d) Specialized indicators (sexual exploitation, labour exploitation, contemporary forms of slavery, trafficking in organs, etc.)?
- (e) Indicators of trafficking in children?
- (f) Guidelines and ethical standards on interviewing presumed victims of trafficking in persons?
- (g) Community policing?
- (h) Labour inspections?
- (i) Border controls?
- (j) Training of embassy staff?
- (k) Financial inspection?

- (l) Health-care inspection, for instance in food industries?
 - (m) Safety inspection?
 - (n) Mandatory reporting of child abuse?
 - (o) A reflection period for persons with irregular immigration¹² status presumed to have been trafficked?
4. Are the relevant governmental and non-governmental stakeholders aware of the identification measures? Do they apply them in their work? Is information on indicators available in their place of work?
 5. Do all the relevant stakeholders, in particular front-line officers, receive ongoing training on identification procedures (see chapter III, on investigations and court proceedings in cases of human trafficking)?
 6. Does the training offered also include training on distinguishing trafficking from other forms of irregular migration, trafficking *modi operandi*, patterns and trends, as well as the rights of victims?
 7. Are there clear guidelines on communication between the front-line officers and specialist anti-trafficking law enforcement units?
 8. Are there mechanisms to ensure that attempts to traffic in persons are identified, for instance in the form of guidelines for border or railway police?
 9. Is there an institutionalized cooperation and referral mechanism in place (see chapter V, on harmonizing protection of trafficked persons with prosecution of traffickers: civil cooperation agreements between representatives of civil society and the State)?

¹²In accordance with the Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, article 13 of that Convention, on a recovery and reflection period, is intended to apply, *inter alia*, to victims of trafficking in human beings who are legally resident with a short-term residence permit.

A child is sitting on a light-colored, textured surface, possibly a sidewalk or pavement. A hand is visible in the upper right corner, holding a black marker and drawing a grid of squares on the ground. The child is looking down at the ground, and their shadow is cast to the left. The grid consists of several squares, some of which contain simple drawings like a checkmark or an arrow.

V. Harmonizing protection of trafficked persons with prosecution of traffickers: cooperation agreements between representatives of civil society and the State

A. Rationale

A comprehensive national criminal justice response to trafficking in persons should include measures for protecting and supporting victims of trafficking alongside appropriate measures to prosecute those trafficking in persons. Cooperation agreements between various stakeholders have proved to be an effective tool in an overall strategy that protects the human rights of trafficked persons and prosecutes alleged traffickers. While it is crucial that governmental, intergovernmental, international, non-governmental and private organizations cooperate, the present chapter focuses specifically on cooperation agreements between law enforcement agencies and providers of services to victims of trafficking in persons, including non-governmental organizations. The referral of a trafficked person by an official authority to a non-governmental service provider contributes to treating an individual in a clandestine sector with an irregular status as someone who deserves to receive services.¹³

With a view to better assisting victims in their recovery and simultaneously creating an environment in which victims feel safe and secure to participate in the criminal investigation and to reconcile the potential conflicting interests between victim service providers and law enforcement, it is important to clearly regulate and guide the working relationship between the service providers and law

¹³See also: UN.GIFT and the International Organization for Migration, *Guiding Principles on Memoranda of Understanding between Key Stakeholders and Law Enforcement Agencies on Counter-Trafficking Cooperation* (2009).

enforcement officers. Such a relationship should be based on the promotion of an approach to trafficking in persons that promotes the rights of victims.

Cooperation agreements between law enforcement agencies and victim service providers should take into account the different interests of the two stakeholders while also aiming to protect victims—an obligation of the State—and sentencing perpetrators. Moreover, a certain level of mutual trust could be built between representatives of law enforcement and civil society by cooperating on a regular basis.

In cooperation agreements, the roles and responsibilities of each partner must be articulated in a very precise way. By keeping to principles of transparency and through the assignment of clear competencies, a cooperation agreement may be an efficient tool to prosecute traffickers and protect trafficked persons.

There are different kinds of cooperation agreements. The most common form is based on a memorandum of understanding between the respective partners. Another option is to issue an internal directive by the competent authorities instructing the responsible officers to refer persons who are presumed to have been trafficked to a non-governmental service provider, regardless of that person's immigration status.

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 4.

Box 4. Selected resources regarding cooperation agreements between representatives of civil society and the State

Key international and regional legal instruments

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 6 and 7

Council of Europe Convention on Action against Trafficking in Human Beings, articles 11-17 and 32-35

Other resources

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14)

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guidelines 5, 6 and 8

Anti-Slavery International, *Protocol for Identification and Assistance to Trafficked Persons and Training Kit* (2005)

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex)

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009), modules 19, 20 and 22

UN.GIFT and International Organization for Migration, *Guiding Principles on Memoranda of Understanding between Key Stakeholders and Law Enforcement Agencies on Counter-Trafficking Cooperation* (2009)

International Centre for Migration Policy Development, *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response* (2006)

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons — A Practical Handbook* (2004), chapter 2, page 16

C. Key questions

1. Are there formal cooperation agreements between law enforcement agencies and non-governmental service providers enabling persons presumed to have been trafficked to access protection and support structures?
2. Do existing mechanisms enable persons with irregular immigration status who are presumed to have been trafficked to access support and protection structures irrespective of whether they cooperate or not with criminal justice authorities?

D. Specific questions

1. Does the State's legal and regulatory framework ensure cooperation and the exchange of information among law enforcement, immigration, labour and other relevant agencies to identify persons presumed to have been trafficked and traffickers; the type of travel documents used for trafficking; and the means and methods used by criminal groups?
2. Does the State's legal and regulatory framework include provisions to strengthen cooperation between law enforcement agencies or prosecutors and relevant private entities?

3. What are the administrative requirements for referring a person with an irregular immigration status who is presumed to have been trafficked to support and protection structures?
4. Does the State's legal and regulatory framework foresee or allow for the possibility of drawing a contract between criminal justice authorities and victim service providers, including non-governmental organizations?
5. With regard to informal cooperation mechanisms:
 - (a) Are there agreements (verbal or based on custom, tradition or usage), forms of cooperation and/or other arrangements between criminal justice authorities and victim service providers, including non-governmental organizations?
 - (b) Are there agreements (verbal or based on custom, tradition or usage), forms of cooperation and/or other arrangements between criminal justice authorities and international organizations that provide services?
 - (c) Are persons presumed to have been trafficked referred to support and assistance structures by the relevant authorities in a regular way and what kinds of agreements form the basis for such referrals?
6. With regard to formal cooperation agreements:
 - (a) Are there formal cooperation agreements between governmental and non-governmental organizations?
 - (b) Are there formal cooperation agreements between intergovernmental or international organizations and non-governmental organizations?
 - (c) Are there formal cooperation agreements between intergovernmental or international organizations and governmental organizations?
 - (d) Are there cooperation agreements, also known as public-private partnerships, between public entities (governmental, non-governmental and intergovernmental organizations) and the private sector?
7. With regard to models of formal cooperation:
 - (a) Do internal directives exist in the respective ministries enabling the referral of persons presumed to have been trafficked?
 - (b) Are any of the models that are being used in the State based on written agreements, including memorandums of understanding?
8. With regard to components of cooperation agreements, do they contain the following: a definition of partners; a definition of the overall purpose of the agreement; principles of cooperation; target groups; different responsibilities (in detail); the cooperation procedure between partners; means for sharing information; duration of support; funding; time when cooperation agreement comes into effect; and amendment and expansion of the cooperation agreement?

(See chapter VI, on support and assistance structures for persons presumed to have been trafficked.)

9. Is there a monitoring system that looks into the implementation of the formal agreement?

10. Are there regular and institutionalized meetings of parties to the formal agreement (see chapter VIII on national coordination mechanisms for and policy formulation, monitoring and evaluation)?

11. Has funding been made available to the cooperation mechanism by governmental or intergovernmental organizations?



VI. Support and assistance structures for persons presumed to have been trafficked

A. Rationale

The provision of support and assistance to trafficked persons is crucial to the rights-based approach of any policy aimed at countering trafficking in persons. It includes access to shelters or other forms of housing, as well as specialized services, such as psychological, legal and medical counselling. Support and assistance structures ensure that a person presumed of to have been trafficked can feel safe while he or she makes decisions on cooperating with law enforcement agencies, filing legal remedies for remuneration and compensation, and looking for social inclusion programmes in his or her country of origin or destination (see chapter VII, on the social inclusion of persons presumed to have bee trafficked in origin, destination or third countries).

The existing human rights framework ensures a specific set of rights for trafficked persons, including through the application of the principle of non-discrimination, safe and fair treatment, access to justice, access to private action and repatriation, residence status, access to health and other services, safe and dignified return, and social inclusion.

Many countries have laws, policies and regulations in place to ensure that victims of (serious) crimes are guaranteed specific rights and services. Those rights should also apply to victims of human trafficking. While some States have developed specific support and assistance structures designed solely to bolster their anti-human trafficking response, good practices have also included the adaptation of existing support and assistance services to the needs of trafficked persons. For instance, existing facilities providing shelter and counselling for victims of domestic violence, refugees and children, for example, can be assessed for and integrated into an overall support and assistance infrastructure for victims of trafficking in persons. The advantage of using already existing structures instead of creating new facilities is that they are more sustainable.

Providing adequate assistance and protection to victims serves to both support the victim and prosecute the offender. The main objective of support measures is to reduce the suffering and harm caused to victims and to assist in their recovery and rehabilitation. From a law enforcement perspective, adequate victim assistance may, moreover, encourage the victim to cooperate with and assist investigators and prosecutors.

Victims should be referred to assistance schemes as soon as possible. Support and assistance structures should provide immediate help and crisis intervention in order to stabilize the affected persons. They should not aim at providing long-term accommodation, as the overall goal is to enable trafficked persons to be self-sufficient rather than to encourage long-term dependency on the support structure. Long-term solutions should be established under an overall social inclusion programme.

It should be relatively easy for persons presumed to have been trafficked to get access to support services (see chapter IV, on the identification of persons presumed to have been trafficked).

The crucial aim in establishing support and assistance structures is to make it possible for trafficked persons to break out of the cycle of violence and dependency and to make informed decisions about their future.

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 5.

Box 5. Selected resources on support and assistance structures for persons presumed to have been trafficked

Key international and regional legal instruments

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, article 6, paragraphs 2-4

United Nations Convention against Transnational Organized Crime, article 25

Council of Europe Convention on Action against Trafficking in Human Beings, articles 11-17

Other resources

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009), modules 22 and 23

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14), chapters 7 and 8

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guideline 6

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex), articles 14-17

International Organization for Migration, *The IOM Handbook on Direct Assistance for Victims of Trafficking* (2007)

International Organization for Migration, UN.GIFT and the London School of Hygiene and Tropical Medicine, *Caring for Trafficked Persons: Guidance for Health Providers* (2009)

Anti-Slavery International, *Protocol for Identification and Assistance to Trafficked Persons and Training Kit* (2005)

International Labour Organization, *Combating Trafficking in Children for Labour Exploitation: A Resource Kit for Policy-makers and Practitioners* (2008), book 4

United Nations Children's Fund, *Guidelines on the Protection of Child Victims of Trafficking* (2006)

World Health Organization, *Guidelines for Medico-legal Care for Victims of Sexual Violence* (2003), chapter 7

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex), guideline 7

World Health Organization, *Ethical and Safety Recommendations for Interviewing Trafficked Women* (2003)

Asia against Child Trafficking, *Protecting the Rights and Dignity of the Trafficked Child in South East Asia* (2007)

C. Key questions

1. Is there a low threshold and transparent access to support and assistance structures for all persons presumed to have been trafficked?
2. Is the support system available to all trafficked persons, irrespective of their willingness to cooperate with the criminal justice system?

3. Are existing crisis intervention structures, such as shelters and counselling centres for victims of domestic violence, victims of hate crimes and unaccompanied children included in a specialized anti-human trafficking support structure?

D. Specific questions

1. Does the legal framework related to trafficking in persons contain provisions to secure support and assistance structures?

2. Does the law allow for or have measures to do the following:

(a) Assist victims in having their views and concerns presented and considered at appropriate stages of the criminal proceedings?

(b) Provide victims with legal assistance?

(c) Protect witnesses and relatives of witnesses or other persons close to them from potential retaliation and intimidation?

(d) Provide for the physical safety of victims while they are in the territory of the State?

(e) Provide assistance and protection to victims in cases of threat of retaliation or intimidation?

(f) Provide victims and witnesses of trafficking access to witness protection programmes?

(g) Provide for the physical protection of witnesses by, for example, relocating them and protecting their identity?


(h) Protect the privacy and identity of witnesses, including by making legal proceedings confidential, conducting court proceedings in camera (i.e. outside the presence of representatives of the media and of the general public), bearing witness through a video link, sealing the records of the proceedings), permitting victims to testify in court without having to publicly disclose their name, address or other identifying information, avoiding any direct confrontation between the victim and the defendant in and outside the courtroom?

(i) Ensure that the best interests of child victims are adhered to (this means, for example, never forcing child victims of trafficking to testify against their traffickers as a condition for remaining in their host country)?

(j) Provide for legislation that ensures special treatment and additional measures to protect and support children throughout the criminal justice proceedings?

3. Does the legal framework provide victims with the right to receive assistance and support immediately?

4. Are there administrative prerequisites for accessing support and assistance structures? Is access to support and assistance structures conditional on the presumed trafficked person's willingness to cooperate with the police or with other competent authorities or do victims of trafficking in persons have unconditional access to services?
5. Are support and assistance structures implemented by governmental, non-governmental or inter-governmental entities?
6. Do elements of support and assistance structures include the following:
 - (a) With regard to financial assistance:
 - (i) Service-based financial assistance funded by Governments?
 - (ii) Service-based financial assistance funded by international organizations?
 - (iii) Service-based financial assistance funded by international and national actors?
 - (iv) Direct financial assistance to persons presumed to have been trafficked?
 - (b) With regard to shelter:
 - (i) Specialized shelters for trafficked persons?
 - (ii) Shelters for other target groups (women who have suffered violence, unaccompanied children, etc.)?
 - (iii) Shelter system that includes renting apartments in different locations rather than housing everyone on a single premise?
 - (iv) Shelter regulations, including the guarantee of human rights principles (freedom of movement etc.), security, safety, management, services and concurrent activities?
 - (c) With regard to specialized services:
 - (i) Health care counselling?
 - (ii) Psychological assistance?
 - (iii) Legal assistance?
 - (iv) Education and vocational training?
 - (v) Employment assistance?
 - (vi) Support in dealing with authorities?
 - (vii) Counselling regulations, including principles of confidentiality, safety, informed agreement and choice, empowerment and non-victimizing attitudes?

A child is sitting on a light-colored, textured surface, possibly a sidewalk or pavement. The child is looking down at the ground. To the right of the child, there is a hand-drawn grid of squares on the pavement. A hand is holding a black marker, drawing a checkmark inside one of the squares. The overall scene suggests a child playing or being part of an activity on the ground.

VII. Social inclusion of persons presumed to have been trafficked in origin, destination or third countries

A. Rationale

Many anti-human trafficking policies focus on returning persons to their respective country of origin once all criminal and administrative procedures have begun or have been pursued. Upon returning to the same situation from which they were originally recruited into exploitative situations, however, might result in the trafficked persons being re-trafficked. Therefore, great emphasis should be put on the social inclusion of trafficked persons in order to achieve durable solutions. The decision to pursue social inclusion strategies in origin, destination or third countries should be based on a sound risk assessment. Complementary elements of a comprehensive social inclusion strategy are the establishment of residence rights, data protection provisions and compensation and remuneration mechanisms.

Residence rights

Providing persons presumed to have been trafficked with a reflection period can assist authorities or other stakeholders in referring the vulnerable person to support and protection structures, as well as in identifying the elements of the crime of trafficking in persons. A reflection and recovery period is in the interest of both the victim and the authorities, as it makes it possible for victims to be properly identified and an investigation to proceed. As a second step, short and long-term residence rights should be granted to persons presumed to have been trafficked in order to alleviate their participation in a criminal/civil court procedure and to facilitate their participation in a social inclusion programme.

Risk assessment

The principle of non-refoulement, according to which no State shall expel or return (“refouler”) a refugee to the frontiers of territories where his or her life or

freedom would be threatened on account of race, nationality, membership of a particular social group or political opinion,¹⁴ should serve as the basis for designing and establishing a risk assessment procedure for persons presumed to have been trafficked. A risk assessment should take into consideration factors such as the risk of reprisals by the trafficking network against the victim and his or her family, the capacity and willingness of the authorities in the country of origin to protect the victim from such reprisals, the social position of the victim on return, the risk of the victim being arrested, detained or prosecuted by the authorities in his or her home country for trafficking-related offences (e.g. the use of false documents and engaging in prostitution), the availability of assistance structures and the opportunities for long-term employment.

Data protection

Procedures that regulate the exchange of personal and/or sensitive information are particularly important in cases of trafficking in persons, as the misuse of information on victims may directly endanger the life and safety of a victim and his or her relatives. In addition, the storage of sensitive data in an international framework, such as individual information about a person being sexually exploited, may lead to further victimization, including harassment and other forms of social exclusion.

Data protection mechanisms should be implemented to guarantee that trafficked persons have access to their personal data and can rectify errors (see also chapter III, on investigations and court proceedings on cases of trafficking in persons).

Compensation

Although compensation for victims of crime is guaranteed by international law (the main instruments being the Organized Crime Convention, art. 25, para. 2, and the Trafficking in Persons Protocol, art. 6, para. 6), the current anti-human trafficking framework, however, does not always provide institutionally established procedures to compensate trafficked persons (see chapter III, on investigations and court proceedings in cases of trafficking in persons).

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 6.

¹⁴Convention Relating to the Status of Refugees (United Nations, *Treaty Series*, vol. 189. No. 2545), article 33.

Box 6. Selected resources regarding the social inclusion of persons presumed to have been trafficked in origin, destination or third countries

Key international and regional legal instruments

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 6, 7 and 8

Convention Relating to the Status of Refugees (United Nations, *Treaty Series*, vol. 189, No. 2545), articles 1 (a) and 33

Council of Europe Convention on Action against Trafficking in Human Beings, articles 14-16

Other resources

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009), module 25

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14), chapters 7 and 8

Office of the United Nations High Commissioner for Refugees, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guidelines 6 and 8

United Nations Children's Fund, *Guidelines on the Protection of Child Victims of Trafficking* (2006)

United Nations Children's Fund, *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe* (2006)

Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection* (2002), in particular recommendations 40-45 regarding residency status for trafficked persons

United Nations Children's Fund and United Nations Office on Drugs and Crime, *Justice in Matters involving Child Victims and Witnesses of Crime: Model Law and Related Commentary* (2009)

Council of the European Union framework decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (*Official Journal of the European Communities*, L 350, 30 December 2008)

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *Compensation for Trafficked and Exploited Persons in the OSCE Region* (2008)

C. Key question

Are there comprehensive and accessible social inclusion programmes for all trafficked persons that take into account issues such as residence rights, mechanisms to ensure compensation, data protection and the implementation of a comprehensive risk assessment?

D. Specific questions

1. With regard to residence rights, are the following related rights and measures put into practice:

- (a) Reflection period?
- (b) Provision of legal aid?
- (c) Short-term residence rights affecting the right to work and to access social welfare?
- (d) Long-term residence rights affecting the right to work and to access social welfare?
- (e) Freedom of movement?
- (f) Family reunification?
- (g) A mechanism to apply for asylum or refugee status?

2. Does the law provide for the possibility of obtaining compensation for damage suffered as part of the sentence, or by filing a civil action (civil claim) for compensation to the criminal proceedings, or through a civil action, or through labour courts?

3. Does the law provide for the possibility of using the confiscated proceeds of crime to compensate victims for damage suffered as a result of having been trafficked?

4. Can victims receive legal aid for the purpose of obtaining compensation and can victims apply for compensation for damage suffered through a victim fund established for that purpose?

5. Are there institutionalized compensation mechanisms that are accessible to trafficked persons and that address the following:

- (a) Legal aid?
- (b) Compensation mechanisms?
- (c) Compensation paid by the perpetrator?
- (d) Specific criminal law procedures?
- (e) Civil law procedures?
- (f) Labour law procedures?
- (g) Compensation paid by the State?
- (h) Victims' fund?
- (i) Bilateral agreements between countries of origin and countries of destination on compensation and the seizure of assets?

6. Are there mechanisms in place that secure the principle of non-refoulement in any decision relating to the return of a trafficked person?

7. Have measures been taken to establish procedures and protocols that regulate the exchange of personal data or data that are sensitive for operational reasons among the national and international agencies concerned, with full respect for the privacy and safety of victims of trafficking in persons?

8. Are risk assessments carried out on a case-to-case basis? Do any such assessments address all possible threats to the safety of victims of trafficking in persons? The following relevant issues should be kept in mind:

- (a) Standard operating procedures;
- (b) Principle of non-refoulement;
- (c) Case teams and victim service providers (non-governmental organizations, law enforcement representatives);
- (d) Reliable and systematic country of origin information;
- (e) Elements of risk and threads covered by a risk assessment (such as: stigmatization and social reintegration prospects; opportunities for self-reliance; medical care; reprisals by the criminal network; sustainability perspective);
- (f) Bilateral agreements on return programmes between countries of origin and countries of destination.

9. Are the personal data of trafficked persons that are stored by non-governmental, intergovernmental and governmental organizations secured, and are there mechanisms that allow trafficked persons to access and rectify the stored data? Any mechanism designed to protect data should provide for the following:

- (a) Informed (and voluntary) consent should be given by the person providing personal data;
- (b) Persons presumed to have been trafficked should have access to their files;
- (c) It should be possible to rectify any errors in the data and the files;
- (d) It should be possible to withdraw the consent given.



VIII. National coordination mechanisms: policy formulation, monitoring and evaluation

A. Rationale

Inter-agency cooperation is a prerequisite for achieving the intended outcomes of a national anti-human trafficking strategy. Anti-human trafficking policies need to be coordinated, monitored and negotiated by all national stakeholders on a regular basis.

In order to ensure a participatory approach, it is crucial to promote democratization processes in States and a multidisciplinary structure should be set up encompassing all relevant non-governmental, governmental and international actors. Such a national sustainable coordination structure or body is essential for facilitating an adequate response to human trafficking.

In order to be effective, the cooperation mechanisms need to be based on a clear understanding of the roles of the various stakeholders involved. The structure should define the methods and means used to collaborate (through regular status meetings, ad hoc working groups or bilateral meetings, for example). The core body should be formed by a multidisciplinary group comprising of all active stakeholders of an overall anti-trafficking strategy.

A national coordinator might be appointed to chair the multidisciplinary group. She or he could make suggestions with regard to the organization of work, the schedule of meetings, the composition and size of the secretariat and the membership of the group and the topics to be discussed. The group should aim at providing all stakeholders with feedback on their role in the anti-human trafficking strategy, facilitating information flow (including on case patterns and case work) and adhering to an internal systems of checks and balances.

Eventually, such a group should be able to monitor the implementation of anti-human trafficking policies, assess what kinds of training and capacity-building are needed, and decide on how to meet those needs.

Further, States could consider appointing a national rapporteur or comparable function, whose task it would be to monitor the effects of the implementation of national policies (or a national action plan) and to systematically gather and analyse information from different actors (see chapter V on harmonizing protection of trafficked persons with prosecution of traffickers: cooperation agreements between representatives of civil society and the State).

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 7.

Box 7. Selected resources regarding national coordination mechanisms

Key international and regional legal instruments

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 9, paragraph 1, and 10, paragraph 1

Other resources

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guideline 3

International Centre for Migration Policy Development, *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response* (2006)

International Labour Organization, *Human Trafficking and Forced Labour Exploitation: Guidelines for Legislation and Law Enforcement* (2005)

UN.GIFT and International Organization for Migration, *Guiding Principles on Memoranda of Understanding between Key Stakeholders and Law Enforcement Agencies on Counter-Trafficking Cooperation* (2009)

United Nations Development Programme, *UNDP and Civil Society Organizations: a Toolkit for Strengthening Partnerships* (2006)

Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons — A Practical Handbook* (2004), chapter 3, page 47

Organization for Security and Cooperation in Europe, *Efforts to Combat Trafficking in Human Beings in the OSCE Area: Coordination and Reporting Mechanisms — 2008*

Annual Report of the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings presented at the Permanent Council Meeting, 13 November 2008

Keith McKay, *How to Build M&E Systems to Support Better Government* (World Bank, 2007)

Organisation for Economic Co-operation and Development, *Guidelines for evaluation and monitoring*

Organisation for Economic Co-operation and Development, *Evaluation Quality Standards*

United Nations Evaluation Group, *Standards for Evaluation in the UN System* (2005)

United Nations Evaluation Group, *Norms for Evaluation in the UN System* (2005)

C. Key questions

1. Is there a mechanism for coordinating, monitoring and evaluating an overall anti-human trafficking strategy at the national level?
2. Is the mechanism based on the participation of all relevant stakeholders, including civil society, employers and trade unions?

D. Specific questions

1. With regard to the possible presence of a multidisciplinary group in the country, has the State appointed a chairperson to the multidisciplinary group, what is the procedure for appointing the chair and is the work of the multidisciplinary group based on transparent procedures, including with regard to its decision-making processes?
2. Has a national plan of action been adopted by all stakeholders?
3. Is the coordination mechanism based on a multidisciplinary and cross-sectoral approach?
4. Which entities are involved in the national response to trafficking in persons?
5. Are the views of trafficked persons represented in the group (and if so, how)?
6. Are the anti-trafficking strategy and the national action plan monitored and evaluated on a regular basis?
7. What are the designated tasks of the coordination mechanism?

8. Does the coordination mechanism identify needs for training and capacity-building?
9. In the absence of a coordination mechanism, does another organization or mechanism such as a national human rights institution monitor national anti-human trafficking actions?
10. Does the Government provide funding for a coordination mechanism?



IX. International cooperation

A. Rationale

Crimes related to trafficking in persons are often transnational in nature, which is why comprehensive, multiagency and flexible cross-border cooperation is essential to ensure the appropriate prosecution of traffickers and to improve and fine-tune measures for protecting victims.

The Organized Crime Convention provides a framework for international cooperation aimed at combating organized crime in general; the Trafficking in Persons Protocol provides a more specific framework for international cooperation, for combating trafficking in persons. It is, however, important to note that pursuant to article 34, paragraph 2, of the Organized Crime Convention, neither transnationality nor the involvement of an organized criminal group are prerequisites for criminalizing trafficking in persons.

The Convention encourages transnational judicial and law enforcement cooperation in the prosecution and investigation of organized crime. This can be accomplished at bilateral, regional, transregional and international levels. An important element of international cooperation is the harmonization of national legal frameworks that criminalize trafficking in persons, a transparent delineation of the respective criminal procedures that fall under national sovereignty, established mandated communication channels and the political will to prevent and combat trafficking in persons.

International cooperation mechanisms include both transnational judicial cooperation and law enforcement cooperation. Judicial cooperation enables, for example, the transfer of the suspects and relevant evidence between States, while law enforcement cooperation facilitates the required transnational investigative cooperation. Combined, international cooperation comprises measures that promote the extradition of alleged traffickers, mutual legal assistance, transfer of proceedings in criminal matters, transfer of sentenced persons, cross-border investigations, the confiscation of assets, the protection of witnesses, law enforcement cooperation and crime prevention.

It is also crucial to establish international cooperation networks of non-governmental organizations that are active in providing support to victims. In order to ensure that the human rights of victims are taken into account when providing them with assistance, the active participation of civil society representatives is beneficial. They may ensure a broader range of assistance options, including for those trafficked persons who do not want to participate in legal proceedings.

Moreover, intergovernmental, international and regional bodies can make their respective international procedures available for prosecuting the crime and for supporting its victims.¹⁵ (On return programmes see chapter VII, on the social inclusion of persons presumed to have been trafficked in origin, destination or third countries.)

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 8.

Box 8. Selected resources regarding international cooperation

Key international and regional legal instruments

United Nations Convention against Transnational Organized Crime, articles 1, 13, 16-18, 19, 21 and 27

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 2 (c), 9, paragraph 4, and 11, paragraph 6

Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (Convention No.182), of the International Labour Organization, article 8

Council of the European Union Act 2000/C 197/01 establishing, in accordance with Article 34 of the Treaty on the European Union, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (1959)

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (United Nations, *Treaty Series*, vol. 1496, No. 6841)

Second Additional Protocol on the European Convention on Mutual Assistance in Criminal Matters (United Nations, *Treaty Series*, vol. 2297, No. 6841)

¹⁵ See United Nations Office on Drugs and Crime, *Criminal Justice Assessment Toolkit* (2006), particularly the cross-cutting issue on international cooperation.

Convention, drawn up on the basis of Article K.3 of the Treaty on the European Union, on Mutual Assistance and Cooperation between Customs Administrations (*Official Journal of the European Communities*, C. 24, 23 January 1998)

Agreement among the Governments of the Organization of the Black Sea Economic Cooperation on Cooperation in Combating Crime, in Particular in its Organized Forms and its Protocol

Commonwealth of Independent States, Programme of Cooperation to Combat Trafficking in Human Beings (2007-2010)

Inter-American Convention on Mutual Assistance in Criminal Matters and its Protocol

Economic Community of West African States Convention on Extradition

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

Extradition Agreement of the League of Arab States (1952)

Scheme Relating to the Rendition of Fugitive Offenders within the Commonwealth

European Convention on Extradition (United Nations, *Treaty Series*, vol. 359, No. 5146) and its protocol (Council of Europe, *European Treaty Series*, No. 86)

Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Simplified Extradition Procedure between the Member States of the European Union (*Official Journal of the European Communities*, C 078, 30 March 1995)

Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, relating to Extradition between the Member States of the European Union (*Official Journal of the European Communities*, C 313, 23 October 1996)

Inter-American Convention on Extradition (United Nations, *Treaty Series*, vol. 1752, No. 30597)

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (United Nations, *Treaty Series*, vol. 1862, No. 31704)

Other resources

United Nations Office on Drugs and Crime, *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (2009), module 7

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14)

United Nations Office on Drugs and Crime, *Legislative Guide for the Implementation of the United Nations Convention against Transnational Crime and the Protocols Thereto* (United Nations publication, Sales No. E.05.V.2)

United Nations Office on Drugs and Crime, *Model Law on Mutual Assistance in Criminal Matters* (2007)

Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex)

International Association of Prosecutors, *Basic Guide to Prosecutors in Obtaining Mutual Legal Assistance in Criminal Matters*

Mutual Assistance (Transnational Organized Crime) Regulations 2004 and the Mutual Assistance in Criminal Matters Act 1987 (Australia)

United Nations Office on Drugs and Crime, *Model Law on Extradition* (2004)

United Nations Office on Drugs and Crime, Report of the Informal Expert Working Group on Effective Extradition Casework Practice (2004)

Asia Regional Trafficking in Persons Project, *Criminal Justice Responses to Trafficking: Ending Impunity for Traffickers and Securing Justice for Victims, International Quality Standards* (2006, as revised in 2007)

Coordinated Mekong Ministerial Initiative against Trafficking, Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region (2004)

Southern African Development Community, Protocol on Mutual Legal Assistance in Criminal Matters (2002)

Mutual assistance pact between member States of the Economic Community of Central African States (2002)

Association of Southeast Asian Nations, Treaty on Mutual Legal Assistance in Criminal Matters (2004)

Association of Southeast Asian Nations, *Trafficking in Persons: Handbook on International Cooperation* (forthcoming)

Commonwealth Secretariat, Scheme Relating to Mutual Assistance in Criminal Matters within the Commonwealth

European Convention on the Transfer of Proceedings in Criminal Matters (United Nations, *Treaty Series*, vol. 1137, No. 17825)

Council of the European Union Act 2000/C 197/01 establishing, in accordance with Article 34 of the Treaty on the European Union, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (*Official Journal of the European Communities*, C 197, 12 July 2000)

C. Key questions

1. Do bilateral and multilateral agreements that address issues such as the provision of assistance to and the social inclusion of victims, the prosecution of perpetrators and prevention measures exist?
2. Is the State party to extradition and mutual legal assistance treaties?
3. Are existing transnational judicial and law enforcement cooperation agreements assessed on a regular basis?

D. Specific questions

1. Is there a central authority mandated to carry out international cooperation activities against trafficking in persons?
2. Do extradition and mutual legal assistance treaties address crimes related to trafficking in persons?
3. Do specialized trafficking units cooperate effectively at the bilateral and regional level?
4. Do specially trained and designated prosecutors and central authority lawyers cooperate effectively at the bilateral, regional and international levels?
5. Are regular assessments carried out to permit international governmental cooperation mechanisms in the following areas:
 - (a) Extradition?
 - (b) Mutual legal assistance?
 - (c) Transfer of proceedings in criminal matters?
 - (d) Transfer of sentenced persons?
 - (e) Investigation?
 - (f) Seizure and transfer of assets?
 - (g) Protection of witnesses?
 - (h) Law enforcement cooperation?
 - (i) Use of special investigative techniques?
 - (j) Crime prevention?
 - (k) Joint investigations, border measures and cross-border cooperation?

6. Do the police cooperate informally? (See chapter III on investigations and court proceedings in cases of trafficking in persons.)
7. Have international non-governmental cooperation mechanisms been formalized?
8. Have inter-governmental cooperation mechanisms been established?



X. Prevention

A. Rationale

A multitude of different measures can be employed to prevent trafficking in persons. During the past two decades, most prevention strategies have focused on raising awareness among groups of people suspected of being vulnerable to being trafficked in order to warn them about the risk of trafficking. Other prevention strategies have aimed at collecting and evaluating information as well as at researching the root causes of trafficking in persons by looking at migration, the increasingly informal and deregulated nature of labour, gender-specific aspects and social exclusion mechanisms.

Another approach to preventing trafficking in persons addresses supply chains and demand factors that facilitate exploitative conditions.

The Organized Crime Convention and its Trafficking in Persons Protocol define measures to prevent trafficking in persons in different areas that are also dealt with in other chapters of this toolkit, including the following (see article 9 of the Trafficking in Persons Protocol):

- (a) Protecting victims so as to prevent their revictimization;
- (b) Conducting research, information and mass media campaigns;
- (c) Carrying out social and economic initiatives;
- (d) Alleviating poverty and addressing underdevelopment and the lack of equal opportunities;
- (e) Discouraging the demand for goods and services acquired through the exploitation of others. (See chapter VI on support and assistance structures for persons presumed to have been trafficked and chapter VII on the social inclusion of persons presumed to have been trafficked in origin, destination or third countries.)

Pursuant to article 9, paragraphs 3 and 4 of the Trafficking in Persons Protocol, measures should, whenever possible, be carried out in cooperation with

non-governmental organizations and other elements of civil society, as well as in the framework of bilateral and multilateral cooperation initiatives.

While international standards recommend embedding prevention efforts into broader policy concepts such as poverty reduction, gender equality and anti-corruption, a more specialized approach should be adopted for the purpose of this toolkit. Therefore, emphasis will be placed on prevention strategies within the criminal justice system.

B. Resources

A selection of relevant resources, including key international and regional legal instruments and tools developed by UNODC, are listed in box 9.

Box 9. Selected resources regarding prevention

Key international and regional legal instruments

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, articles 5 and 9-11

United Nations Convention against Corruption, chapters II and III

Convention on the Elimination of all Forms of Discrimination against Women, article 10

Other resources

United Nations Office on Drugs and Crime, *The Global Programme against Corruption UN Anti-Corruption Toolkit*, third edition (2004)

United Nations Office on Drugs and Crime, *Compendium of International Legal Instruments on Corruption* (2005)

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guidelines 3 and 7

United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14), chapter 9

United Nations Office on Drugs and Crime/Global Initiative to Fight Human Trafficking, *Combating Trafficking in Persons: A Handbook for Parliamentarians* (United Nations publication, Sales No. E.09.V.5)

International Labour Office, *Combating Trafficking in Children for Labour Exploitation: A Resource Kit for Policy-makers and Practitioners* (2008), book 4

United Nations Office on Drugs and Crime, *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (2006)

International Organization for Migration, *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking* (2006)

Organization for Security and Cooperation in Europe, *Action Plan to Combat Trafficking in Human Beings* (2005)

Organization for Security and Cooperation in Europe, Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *Efforts to Combat Trafficking in Human Beings in the OSCE Area: Coordination and Reporting Mechanisms* (2008)

Organization for Security and Cooperation in Europe, Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, "Human trafficking for labour exploitation/forced and bonded labour: Identification-Prevention-Prosecution" and "Human trafficking for labour exploitation/forced and bonded labour: prosecution of offenders, justice for victims", *Occasional Paper Series No. 2* (2008)

EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (*Official Journal of the European Communities*) (2005/C 311/01)

International Organization for Migration/Association of Southeast Asian Nations, *ASEAN and Trafficking in Persons: Using Data as a Tool to Combat Trafficking in Persons* (2007)

Council of Europe, *Handbook for parliamentarians: The Council of Europe Convention on Action against Trafficking in Human Beings* (2007)

C. Key questions

1. Are criminal justice agencies involved in specialized prevention programmes?
2. Are there social and economic programmes in place to counter exploitative labour conditions?
3. Are there specialized research institutions aiming to deepen understanding of and research in the root causes of trafficking in persons?

D. Specific questions

1. Does the State's national legal and regulatory framework specifically aim, including through the establishment of policies, programmes and other measures, to do the following:
 - (a) Prevent trafficking in persons, including through social and economic initiatives?
 - (b) Protect victims from being victimized repeatedly?
 - (c) Carry out information and media campaigns?
 - (d) Undertake research?
 - (e) Alleviate the factors that make people vulnerable to trafficking in persons, such as poverty, underdevelopment and discrimination?
 - (f) Discourage the demand that fosters all forms of exploitation that lead to trafficking, including through educational, cultural and social measures?
 - (g) Enhance cooperation with non-governmental and other relevant organizations that are part of civil society?
 - (h) Strengthen systems that protect children?
 - (i) Establish hotlines?
 - (j) Ensure that labour standards are enforced?
 - (k) Regulate domestic work under labour law?
 - (l) Ensure that measures comply with internationally recognized human rights norms and standards?
2. Are there specific legal provisions in the national criminal code that deal with the prevention of crime?
3. Are there specialized units in the national criminal justice system that work on preventing crime?
4. Do law enforcement units specialized in fighting trafficking in persons have analysts, or are they regularly provided with information by specialized intelligence units, on the crime of trafficking in persons? (See chapter III on investigations and court proceedings in cases of trafficking in persons and training needs questionnaire contained in the annex to the present publication.)
5. Are there institutions specialized in monitoring, researching and evaluating trafficking in persons?

6. Have specialized awareness-raising campaigns been carried out? If the answer is yes:

- (a) Who have they been targeted at?
- (b) What has been the message of the campaign?
- (c) Have those campaigns addressed all forms of trafficking?
- (d) Has encouraging and empowering language been used in the campaign?
- (e) Has the awareness-raising campaign reached the majority of the country's population?
- (f) Have texts that have been used in the awareness-raising campaign been translated into local languages?
- (g) Does the awareness-raising campaign aim to strengthen the capacity of locally based actors, including non-governmental and governmental officials, specifically those working in law enforcement, to respond to trafficking in persons?
- (h) Once over, have the awareness-raising campaigns been evaluated?
- (i) Have the results of such an evaluation been made accessible to all relevant actors?

7. Do all relevant stakeholders, including non-governmental service providers, law enforcement agencies, justice authorities, lawyers and social welfare authorities, receive ongoing and institutionalized training in their respective capacities to address all aspects of prevention? (See the training needs questionnaire in the annex to the present publication.)

8. Are there prevention programmes in place that target potential consumers, beneficiaries or recipients of services and goods or funds generated by trafficking in persons? Do such programmes tackle consumers' access to information on the supply chain and on the conditions under which people had to work in order to produce a good? Do they aim to reach persons in charge and consumers within the informal, unregulated and unprotected working sectors, including domestic work, privately organized care and nursing, construction, the entertainment and sex industries etc.?

9. Are there social and economic programmes aimed at creating alternative livelihoods for those groups considered at risk of falling victim to trafficking in persons?

10. Are there social inclusion programmes aimed at breaking the cycle of trafficking, preventing victims from being trafficked repeatedly and preventing victims from becoming traffickers themselves? (See chapter VII on the social inclusion of persons presumed to have been trafficked and chapter VI on support and assistance structures for persons presumed to have been trafficked.)

11. Do national authorities provide codes of conduct and/or accompanying training for their personnel deployed as peacekeepers, law enforcement trainers, diplomats and other functions in the framework of international secondment agreements? (See chapter XI, on rapid needs assessments in conflict and post-conflict areas.)



XI. Rapid needs assessments in conflict and post-conflict areas

A. Rationale

Countries in conflict and post-conflict situations are often characterized as fragile and plagued by complex, multifaceted problems that undermine peace and security. The collapse of the State and the rule of law that occurs during and after an armed conflict increases vulnerabilities to criminal activities and exposes the population to human security concerns, including that of trafficking in persons.

Armed conflicts increase the risk that criminal networks become more active in, for example, the smuggling of arms and migrants and trafficking in persons. The absence of governmental protection mechanisms increases criminality and undermines security. The destruction of traditional and regulated economies promotes the increase of new, unregulated and illegal markets. The social order and established structures are threatened, generating multiple sets of vulnerable groups, including orphans, internally displaced persons and refugees.

In armed conflicts, trafficked persons are recruited for specific purposes. For example, youngsters are recruited as child soldiers and men, women and children are forced to provide goods and services to military and, sometime, even to peacekeeping personnel. Moreover, conflicts make it easier for traffickers to prey on women, men and children who have been displaced and thus made more vulnerable by the loss of livelihood and material possessions. Natural disasters can have similar consequences.

B. Resources

A selection of relevant resources are listed in the box below.

Box 10. Selected resources regarding rapid needs assessment in conflict and post-conflict areas

United Nations Office on Drugs and Crime/Department of Peacekeeping Operations of the United Nations, *United Nations Criminal Justice Standards for United Nations Police* (2009)

Vivienne O'Connor and Colette Rausch, eds., *Model Codes for Post-Conflict Criminal Justice: Model Criminal Code* (United States Institute of Justice, 2007)

United Nations Office on Drugs and Crime, *Criminal Justice Assessment Toolkit* (2006)

Department of Peacekeeping Operations of the United Nations, *Human Trafficking Resource Package* (2004)

Department of Peacekeeping Operations of the United Nations, "Compilation of Guidance and Directives on Disciplinary Issues for all Categories of Personnel Serving in United Nations Peacekeeping and Other Field Missions" (2003)

North Atlantic Treaty Organization Policy on Combating Trafficking in Human Beings (2004)

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council on Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), guideline 10

United Nations Interregional Crime and Justice Research Institute, *Training Manual on Trafficking in Human Beings and Peace-Support Operations* (2006)

C. Key questions

1. Are there mechanisms for monitoring informal markets and illegal economic activities (such as the forced recruitment of participants in armed conflict, trafficking in drugs and weapons, and the forced recruitment of people to produce certain goods and provide certain services) resulting from a conflict?
2. Before being deployed to the field, are peacekeeping personnel trained and prepared to identify, respond to and help prevent trafficking in persons?
3. Are instruments developed by the Department for Peacekeeping Operations of the United Nations being used to advise and train personnel, including members of inter-agency task forces, advisers on gender and child-related issues, and trafficking focal points?
4. Are any support and assistance structures available for vulnerable groups, including refugees, internally displaced persons and children?

D. Specific questions

1. Are there international or regional entities present to provide humanitarian aid and assistance to civilians affected by armed conflict? (See chapter VI, on support and assistance structures for persons presumed to have been trafficked.)
2. Do those entities monitor and document different forms of human rights violations in the area where conflict is taking place?
3. Are those entities informed about the crime of trafficking in persons?
4. Are there tools available to enable humanitarian aid providers to document cases of trafficking in persons? Do the documented cases mention specific forms of trafficking arising from an armed conflict, including trafficking for the purpose of recruiting child soldiers, sexual exploitation and forced labour and services for participants of armed conflicts and peacekeeping personnel?
5. Are there codes of conduct for peacekeeping personnel that include provisions aimed at preventing trafficking in persons and other forms of exploitation?
6. Is there a system in place for prosecuting violators of those codes of conducts, regardless of whether the violators were representatives of public or private entities?
7. Are international and regional actors, including United Nations personnel serving in United Nations peacekeeping operations and other field missions, informed about codes of conduct and directives on sexual harassment developed by the Department of Peacekeeping Operations?
8. Are there mechanisms for enabling disciplinary measures to be taken and procedures to be followed in line with United Nations staff rules, administrative instruction ST/AI/371 on revised disciplinary measures and procedures and administrative instruction ST/AI/379 on procedures for dealing with sexual harassment?
9. Must privately contracted agencies adhere to governmental regulations on preventing trafficking in persons in conflict and post-conflict situations? If so, do guidelines and/or supervision mechanisms exist to monitor their activities? (See chapter X, on prevention.)
10. Have any measures been taken in order to prevent trafficking in persons in post-conflict societies? Are there special programmes to promote education and employment and other measures of social inclusion for unaccompanied children, widows and other vulnerable groups? (See chapter VII, on the social inclusion of persons presumed to have been trafficked in origin, destination or third countries.)



Annex

Training needs assessment questionnaire

A. Introduction

This document is based on a questionnaire used in a training needs analysis conducted by the United Nations Office on Drugs and Crime (UNODC) in early 2008. The questionnaire has been developed further as a result of practical experience. The version presented below was aimed at law enforcement officers but has been amended and used to interview prosecutors and judges, as well as others outside the criminal justice system. It is crucial that, in any assessment of technical assistance needs, responses be triangulated with the responses provided to other questionnaires; this will either corroborate or invalidate the information. By making only slight amendments, the questionnaire can help provide that triangulation, for example by asking national, regional and local managers and practitioners essentially the same question. It is envisaged that the rationale given at the start of each section of the questionnaire will provide guidance for interviewers/analysts. It should be emphasized that training alone is very unlikely to address all the issues identified in the questionnaire.

B. Roles

Rationale

Identifying a person's role accurately allows interviewers to decide which questions to ask and, ultimately, to compare views (for example, managers might assess practitioners differently from how practitioners would assess themselves).

Although such an identification might be difficult, it may be useful to have some notional generic descriptions of some roles, in this context for example basic

investigators. The value of this is that it would allow comparison with other States to identify potentially successful training interventions.

Identifying the details of a role carries the danger that it will allow individuals to be identified. This may have an influence on responses.

Questions

1. What is your role?
2. What are your duties?
3. What is the role of your unit?
4. Have you previously been involved in investigating crimes related to trafficking in persons?
5. If you have previously been involved in the investigation of a crime related to trafficking in persons, what was your role? (Were you an investigator? Were you a junior, mid-level or senior manager?) Note to interviewers: descriptions of roles in investigations are likely to differ widely between jurisdictions.
6. What forms of trafficking in persons have you investigated (i.e. for sexual exploitation, labour exploitation or organ trafficking)? Note to interviewers: consider asking supplementary questions at this point to establish the precise nature of the offences, as these may differ widely.
7. Which of the following types of cases have you investigated and in what capacity? Note to interviewers: the offences listed below have been chosen because they contain elements that are relevant in the investigation of crimes related to trafficking in persons. The title or description of the offences may vary considerably between jurisdictions. The list is not exhaustive and interviewers may wish to ask questions about other offences in addition to or instead of those listed below.
 - (a) Kidnapping;
 - (b) Rape;
 - (c) Sexual assault;
 - (d) Serious physical assault;
 - (e) Unlawful imprisonment;
 - (f) Blackmail.
8. Does your unit gather information?
9. Does your unit analyse information?

10. Does your unit disseminate the result of such analysis?
11. Does your unit gather information specific to trafficking in persons?
12. Does your unit analyse information specific to trafficking in persons?
13. Does your unit disseminate the result of specific analysis?

C. Trafficking in persons in [country name]

Rationale

Although some of these questions may appear inappropriate for some respondents, Experience has shown that there is considerable value in asking them.

Responses must be seen in context (i.e. a person who has only investigated cases of trafficking in persons for sexual exploitation may have a response that reflects that experience), but asking the questions irrespectively of the level of responsibility of the respondent has proved valuable for triangulation.

Questions

1. What is your analysis of [country name] as a place where trafficking in persons takes place? Is it a country of origin, transit or destination, or a blend of two or more of those?
2. Which indicators of trafficking in persons do you consider to be the most significant in the context of [country name]?
3. What do you feel has contributed most in successful investigations of trafficking in persons cases in [country name]?
4. What do you consider to be the greatest problems faced by [country name] in investigating trafficking in persons?
5. What form of trafficking in persons do you consider to be most common in [country name]: trafficking in persons for sexual exploitation or some form of labour exploitation?
6. Which legal code(s) has/have been used to prosecute trafficking in persons offences in [country name]? Why has/have this/these code(s) been used?
7. In your experience, how have trafficking in persons investigations been initiated in [country name]? Have they, for example, been based on the identification, by non-governmental organizations or individual law enforcement staff, of persons presumed to have been trafficked?

D. Working with other units or organizations

Rationale

These questions have proved particularly valuable in triangulating information and building an accurate picture of the situation.

Questions

1. Which other units (either within law enforcement, prosecution departments, non-governmental organizations or other agencies) does your unit work with?
2. Can you describe your work with these entities?
3. Can you describe the arrangements for sharing information between units and organizations?
4. When working with other units etc., what works well?
5. What could be improved?

E. Investigative techniques

Rationale

This section has been developed specifically for investigators; it has been expanded since it was originally used.

Quantitative and qualitative questions are included, in an effort identify gaps and get suggestions for solutions.

With some slight amendments, the same questions can be asked to managers and practitioners, as well as to others, for example to prosecutors.

Interviewers should use the original role given by the person to determine the questions to be asked. However, interviewers should keep in mind that even though a person's official role might suggest that he or she has nothing of value to say on a particular topic, the interviewee might have useful information.

Questions

1. When investigating crimes related to trafficking in persons, which of the following techniques have been used by you or someone that you know:

(a) Interviews conducted by staff trained to interview vulnerable witnesses;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(b) Forensic examination of victims;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(c) Forensic examination of suspects;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(d) Forensic examination of locations;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(e) Forensic examination of vehicles;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(f) Forensic examination of documents;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(g) Static surveillance;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(h) Mobile surveillance;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(i) Pedestrian surveillance;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(j) Intrusive surveillance in premises;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(k) Protection measures for victims and witnesses;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(l) Communications data analysis;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(m) Routine checks at border points and within the country;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(n) Information analysis and profiling of general trends and specific cases;

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(o) Enquiries in the jurisdictions of other States.

(i) Use of technique

Not used at all		Used in general crime		Used in trafficking in persons	
-----------------	--	-----------------------	--	--------------------------------	--

(ii) Knowledge of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

(iii) Practical application of technique

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- 2. Of the techniques listed above that have been used, which was the most successful? Why was it successful?
- 3. Of the techniques listed above that you have not used yet, which are you most likely to use and why?
- 4. What training have investigators received in using specialist techniques in:
 - (a) General investigations?
 - (b) Investigations into cases of trafficking in persons?
- 5. If specialist techniques are used, are they carried out by investigators from individual units or are they carried out by people whose main duties are using the techniques?

F. Current awareness in [country name]

Rationale

The questions in this section can be used to invite a person to asses their own level of awareness and the level of awareness of groups in general, including general police patrol staff, border and asylum police, general investigators, specialist investigators, prosecutors and the judiciary. Asking these questions provides opportunities for triangulating and corroborating or invalidating responses.

Questions about the definition of trafficking in persons and migrant smuggling provide some independent validation of a person’s assessment of their own knowledge.

Questions

- 1. How would you evaluate your knowledge of the following:

- (a) Trafficking in persons legislation;

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- (b) Indicators of trafficking in persons;

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- (c) The current trafficking in persons issues being faced by [country name];

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- (d) Assessments for establishing the risk that persons will be trafficked;

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- (e) Victim referral mechanisms in [country name].

Very good		Good		Average		Weak		Very weak	
-----------	--	------	--	---------	--	------	--	-----------	--

- How would you define “trafficking in persons”? (Responses may be compared to existing national legislation. This will help provide objective analysis of levels of knowledge.)
- How would you define “smuggling of migrants”?
- What are the differences between trafficking in persons and migrant smuggling?

G. Training

Rationale

Where respondents assert that material has been distributed or that training has been given, it is advisable to make physical visits to at least some of the recipients to check whether this has actually happened.

Questions

- Describe the training you have received on trafficking in persons?
- What subject areas were covered in the training?
- What was good about this training?
- How could the training be improved?
- Who delivered the training?

6. Who attended the training?
7. After receiving training, are officers required to remain in their post for a certain period of time?
8. Is training on trafficking in persons embedded in other kinds of training (e.g. courses for investigators, prosecutors, new recruits etc.)? If so, which kinds of training?
9. Is it possible to have copies of the training material?
10. How are patrol officers, investigators, prosecutors, etc. trained or briefed about new crime trends and legislation?
11. If you have not have not received specific training in trafficking in persons, how did you learn about it?
12. If you attended trafficking in persons courses, but have learned more about the subject since your initial training, how did you learn more?



UNODC

United Nations Office on Drugs and Crime

Vienna International Centre, PO Box 500, 1400 Vienna, Austria
Tel.: (+43-1) 26060-0, Fax: (+43-1) 26060-5866, www.unodc.org

United Nations publication
Printed in Austria



V.09-87518—June 2010—250