



GOOD PRACTICES IN RESPONSE TO TRAFFICKING IN HUMAN BEINGS

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Cooperation between civil society and law enforcement in Europe

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trafficking in human beings**

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Danish Red Cross 

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¹ The list of initial participants can be found at <http://www1.drk.dk/sw39475.asp>.

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Introduction

Why a manual of good practices in response to human trafficking? This question is not only relevant for any new project, but is of great importance in a context in which there are already several manuals of good or best practice, as well as other attempts to provide guidelines to what good practices should be. The rationale for drawing up this manual was to make a specific intervention that both maps out and offers reflections upon good practices. More specifically, the manual takes stock of some of the most innovative practices in response to human trafficking in countries of origin, transit and destination. Its scope is therefore not only wider, but it offers a combined view of the practices and challenges that arise from the contextual constraints of countries of origin versus countries of destination. Rather than treating them as separate realities, the manual will argue for the necessity of continuity and inter-linkage between these practices. Although the contributions selected are located in the European geographical area, the models and the concerns raised will hopefully resonate beyond Europe's geographical borders.

The purpose of the manual is to provide inspiration for those interested in starting projects or actions in relation to human trafficking or those who want to situate their own practices in a wider context and reflect on how to improve them. It therefore addresses both 'newcomers' to the problem of trafficking and 'entrenched practitioners'. In this sense, the manual tries to set up a framework for dialogue on what constitutes good practice and how practices can be improved still further. The main focus is on institutional arrangements and strategies for tackling the problem of trafficking. Although these institutional arrangements are most often made possible by specific legal frameworks, it will not discuss the details of the legal provisions that make these institutional arrangements possible.

The point of departure for this manual is that a holistic approach is needed if we are to have any hope of moving

towards better responses to the growing problem of trafficking in human beings. This approach recognises on the one hand the primary responsibility of the state to take action, and on the other the need to join efforts and make use of insights and capabilities from non-governmental organisations (NGOs) in ensuring responses that keep the interests of the most vulnerable in view. The main focus of this manual is thus the intersection between civil society and state responses. The growing awareness that there is a convergence of interests, despite different starting points, has materialised into a number of practical examples of NGO-government cooperation. The cases treated in this manual all point to new possibilities for thinking innovatively about how to improve responses to human trafficking. Yet such cooperation also presents a range of challenges and pitfalls, particularly for civil society actors. We hope that this manual may also aid critical thinking about how best to achieve synergies without compromising the values to which different parties subscribe.

This manual is a follow-up to the conference organised by the Danish Red Cross (DRC) on 9 June 2005 to share good practices on responses to human trafficking. It is also the result of the growing involvement of Red Cross societies across Europe in this field.² The Red Cross has approached the problem of trafficking in human beings from the perspective of the vulnerable, as enshrined in the Fundamental Principles of the International Red Cross/Red Crescent Movement.³ This perspective also informs this manual. While being theoretically supported through an analysis of what good practices mean

² DRC, together with the International Federation of Red Cross/Red Crescent Societies (IFRC) have established the European Red Cross/Red Crescent Cooperation in response to trafficking in human beings.

³ Within the Red Cross/Red Crescent movement, this involvement is rooted in the Council of Delegates Resolution 4 of 2001. In Europe, the framework for this involvement was set up during the Plan of Action on Migration adopted at the European RC/RC Conference in Berlin, 2002. IFRC, Resolution 4/2001 of the Council of Delegates (Geneva: IFRC, 2001).

in terms of its 'endpoint' or those who are targeted, the perspective of the most vulnerable is also a means of keeping in check very pragmatic approaches that target the phenomenon as a whole but might have unforeseen or negative impacts upon the vulnerable.

The scope of this manual is larger than the initial framework of the conference, both in terms of the audience and in terms of the practices presented. Besides the conference participants who have agreed to contribute, several other organisations have agreed to share their experiences and their work as an important addition to the conference presentations. The choice of contributors was primarily motivated by their attempts to promote a consistent human rights approach in anti-trafficking practices. However, this should not close off reflection upon their own practices and other practices in the field, nor limit analysis to human rights considerations. This manual will therefore propose a framework for understanding and analysing what constitutes good practice in response to human trafficking.

The aim is to provide various institutions and agencies with guidelines and inspiration for their own strategies, as it draws on models which have at their core the welfare of trafficked persons. It also opens up reflection on these models by placing them side by side with existing standards in the field. It is therefore important to be aware of the gap between ideas and reality, between the standards that we would all like to see in the field of trafficking and the reality of implementation. Going beyond a simple overview of practices, the presentations undertaken here contextualise them and reflect upon them, raising questions that need to be considered further.

This manual can be located at the crossroads between present and future, between what is being done in response to human trafficking and how these practices can be still transformed or improved. To open up possibilities of thinking about how practices can be improved further, it starts with some considerations on the definition of 'good practices'. What constitutes a 'good practice'? How do we judge 'good

practices'? Based upon these preliminary insights, the manual will be structured around the issue of the 'invisibility' of human trafficking. *The problem of human trafficking is not solely that it has been invisible, but also how it has become visible and to whom it has become so.* The question of 'invisibility' and practices of shedding invisibility will be discussed in relation to three dimensions:

Identification and referral

Without identifying victims of trafficking and setting up adequate referral systems, it is impossible even to think about how to create practices for the most vulnerable. Good practices on identification and referral will cover frameworks for cooperation and the roles of hotlines and outreach teams. Pag-Asa (Belgium) shows how cooperation works when enshrined in law, while the Agency for the Coordination of Victims of Trafficking (Serbia) is interesting in terms of formalising institutional arrangements and including the government as a major responsible actor. IOM Ukraine has set up extensive cooperation with NGOs for the grassroots identification of victims of trafficking. The role of hotlines is discussed in relation to ASTRA (Serbia), while the very innovative outreach units draw on the experience of On the Road (Italy) and Tampep (Italy).

Victim assistance and protection

Good practices of assistance and protection continue the model of frameworks for cooperation with KOOFRA (Germany) on practices of drafting cooperation agreements and Alternative sociale (Romania) on initiated model practices that have inspired governmental reactions. Issues of social inclusion and victim integration will be tackled by looking at initiatives and projects from On the Road (Italy) and Reaching Out (Romania).

Law enforcement training

Rounding out the circle of good practices, the last section focuses on law enforcement training, inasmuch as this can be considered either a prior requirement to identification and referral or a realisation that results from the necessities of

identification and victim assistance. Training can help officials who come into contact with suspected victims of trafficking recognise the problem and thus open the way to other good practices. At the same time, training draws inspiration from the knowledge of victims and their needs. On the creation of standards and the institutionalisation of training, the manual will discuss the ICMPD (Austria) contribution. On how training relies on first-hand knowledge and methods of training, La Strada (Poland) will be considered.

Shedding the invisibility of trafficking as a phenomenon and the invisibility of trafficked persons has to be consonant with rendering trafficking visible as a human rights problem. This project is therefore concerned with practices that are most adequate to these goals.

The presentation and discussion of such practices is prefaced by Dr Helga Konrad's contribution to the DRC conference. As the OSCE Special Representative on Combating Trafficking in Human Beings, she is uniquely placed to offer an up-to-date account of where anti-trafficking practices are today, as well as the larger context within which good practices will subsequently be examined.

Remarks on terminology

Whether one speaks about trafficking in women or trafficking in people, smuggling or labour exploitation has important consequences for all the actors involved. As labels 'make up people'⁴ by creating identities that stick, the terms that we use are of the greatest importance. The descriptions and identifications applied to trafficking enable or limit different practices. While the terminology related to trafficking has to a certain extent been enshrined in a series of legal docu-

ments, there is still indeterminacy about how best to capture the complex reality of the phenomenon. For the purposes of this manual, the terms most widely employed in the field by the various organisations involved will be used. When terms are equivocal or likely to entail important (negative) consequences, this will be pointed out in the course of the manual.

As far as the scope of the term 'human trafficking' is concerned, this refers not only to women, but also to men and children. Given the preponderance of women in trafficking statistics, 'women' inevitably appears more frequently as a reference. Moreover, many of the practices discussed have initially been formulated in response to trafficking in women, especially for sexual exploitation. Gradually some of these practices have been adjusted to accommodate the reality of trafficking for other forms of exploitation and forced labour, as well as the trafficking of men. However, the most sensitive area remains trafficking in children, which requires special provisions in all areas concerned. Thus, while making 'children' a reference of practices and legal provisions is a necessity, it is important to beware of jumbling together such different subjects, who have such different needs.

The practices considered, which tackle the problem of trafficking from different angles, have also been termed 'anti-trafficking' or 'counter-trafficking'. In order to reflect its humanitarian perspective, the Red Cross has avoided these rather antithetical terms and has formulated them as 'practices in response to human trafficking'. For reasons of convenience, however, this manual will use the term 'anti-trafficking'.

4 Ian Hacking, 'Making up people', in *Reconstructing Individualism. Autonomy, Individuality and the Self in Western Thought*, ed. Thomas C. Heller, Morton Sosna, and David E. Wellberry (Stanford, Ca: Stanford University Press, 1986), 222-236

Setting the context:
perspectives on
anti-trafficking

Based on a speech made by Dr Helga Konrad to the Conference on Combating Trafficking in Human Beings, Copenhagen, Denmark, 9 June 2005

It is uncontested that every year tens or even hundreds of thousands of people, women, children and men are exploited, sold and forced into situations of exploitation from which there is almost no escape. These people are abused as commodities by a transnational criminal industry, which has already generated billions of dollars for criminals, criminal organisations and groupings, which still operate practically with impunity. Despite recent positive efforts and developments at national, regional and international levels, little has changed for those concerned. Trafficking in human beings is one of the most globalised criminal businesses in the world today, one that almost no country is immune from.

The people who fall victim to traffickers are abused as commodities by a transnational criminal industry – the profits of which have been found to be so high that some of the criminals are moving away from drug trafficking into this modern form of slave trade or profit even further by using the trafficked persons as 'manpower' for other criminal purposes, such as trafficking or selling drugs and weapons.

Human trafficking is one of the most lucrative criminal enterprises in the world. Profits from this criminal industry are enormous, generating billions of dollars annually to criminals and organised crime groups. And the criminals are fully integrated into the global economy, buying and selling securities, speculating on foreign exchange rates and doing business on the stock exchange. The only difference is the origin of the money they invest.

Globally, the full spectrum of criminal organisations and shady businesses are involved – from major criminal syndicates to gangs to smuggling rings to loosely associated networks. Europol, the law enforcement authority of the EU, estimates that there are 3,000-4,000 Mafia organisations with at least 30,000-40,000 collaborators 'active' in criminal endeavours including trafficking in persons.

Trafficking in human beings has developed an industry of its own which typically involves transporters, recruiters, document forgers, brothel owners, employment agencies, etc. The trafficking industry world-wide is also connected with other related criminal activities such as extortion, money laundering, bribery, drug use, etc. There are no ethnic barriers between the criminals. And, of course, the trafficking in persons industry could not exist and thrive to such an extent without corruption.

Human trafficking concerns by no means only countries of origin; rather it affects us all – in East and West alike, in Europe and in other parts of the world – as countries of origin, transit and/or destination – and very often as a mix of all three. While in Europe it is mainly women and children who have been trafficked for sexual exploitation and for the market of pornography, in other parts of the world, but increasingly also in Europe, many people end up being exploited as domestic servants, as bonded or coerced workers in sweatshops, on construction sites, in agriculture and textile and garment factories, in the transport industry and in restaurant chains, on plantations and in mines.

So far we have been addressing human trafficking mainly for the purpose of sexual exploitation – mainly because it is a major problem in Europe and many other parts of the world. There have been some isolated efforts to address trafficking in human beings in the context of forced and bonded labour or services, but not enough to reach a critical mass of action that would yield significant results.

It is evident that no single country, no institution or agency alone will be able to diminish the problem of human trafficking. On the contrary: coordination on all aspects in the combat against human trafficking and absolute cooperation on everything is indispensable, if we wish to be successful.

Therefore, the OSCE will continue and intensify the work started in 2004 within the 'Alliance against Trafficking in Persons' under the guidance of the OSCE Special Representative for Trafficking regarding concerted and streamlined

approaches to all the dimensions of human trafficking. The 'Alliance against Trafficking in Persons' provides the framework within which all relevant international organisations, several non-governmental organisations and institutions dealing with human trafficking can offer their input and expertise. Such an approach enables us to offer guidance and best practices in anti-trafficking management.

The goal of the Alliance is to provide high-quality practice-oriented background information to governments and all those responsible for the fight against human trafficking, as decision-making aids in the formulation and implementation of anti-trafficking strategies. States must be encouraged to develop national and transnational strategies to prevent trafficking in persons, to prosecute traffickers and their accomplices and to protect and reintegrate victims by improving their capacities to act on their own and in cooperation with one another.

These national strategies should include the appointment of national coordinators in each country; the establishment of multi-disciplinary national working groups, teams, committees; the adoption of comprehensive national plans of action with timeframes, clear division of labour and responsibilities and adequate budgeting; and the integration of meaningful approaches to human trafficking into a multi-year strategy focusing on national, regional and international cooperation.

Common work on combating human trafficking must be based on a comprehensive approach to this multifaceted problem. It should comprise all the main areas of concern within this complex puzzle of human trafficking: raising awareness of the risks, standard setting for victim assistance and protection (including children), for the return and reintegration of victims as well as preventive measures. It should also involve all relevant actors – governmental authorities, local NGOs, the police, the judiciary, international organisations, etc.

The challenge is now to put the pieces of this puzzle together and to interlink the various activities. Combating this global

crime also requires political will to do so and concerted political action at national, regional and international levels, if we wish to achieve a significant change.

While there are signs of progress in the fight against human trafficking, especially when it comes to institutional mechanisms that did not exist several years ago, there is little evidence that we have succeeded in curbing this crime. Consequently we must reflect on these facts and use them to evaluate our strategies and efforts and improve upon them.

Why is it so difficult to crack down on human trafficking? What are the problems? One could draw attention to at least some of the problematic and weak points in the approaches taken to human trafficking.

There is the matter of victims of trafficking not being identified as such. Many victims continue to be deported as illegal immigrants or are categorised as perpetrators of criminal offences, fined for administrative offences or taken into custody.

There is the problematic issue of individual laws interfering with one another which often leads to victims not being recognised as victims and being sanctioned for criminal acts arising from the trafficking transactions.

There is the matter that only a few countries are able to appropriately address trafficking in children.

There is the problem of lacking infrastructure designed to provide appropriate assistance and protection to victims of trafficking including children.

There is the matter of national legislation often not properly reflecting the definition of human trafficking given in the UN Protocol and not providing for punishment of traffickers and their accomplices which reflects the severity of the crime. Many destination countries have not yet ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

There is the problem that the legal tools used in the fight against organised crime, such as wire-tapping, tracking the financial assets of the criminals, addressing the crime from beginning to end, long-term under-cover investigations and surveillance, etc., are hardly ever utilised in human trafficking cases.

There is the problem that human trafficking is constantly confused with human smuggling and that the two concepts are used interchangeably. Smuggling of people – although often undertaken in dangerous or degrading conditions which may even lead to the death of people – generally ends with the arrival of the people smuggled at their destination. Human trafficking, on the other hand, is characterised by deception, coercion etc. and involves the ongoing exploitation of people who are deprived of their freedom and forced into slavery-like situations, from which the criminals derive their profits. Very often, when crossing borders, people are not yet aware of the fate that awaits them and might lead to their enslavement by traffickers and their accomplices. The over-emphasis on the act of illegal border-crossing fails therefore to address the essential part of human trafficking meaningfully and efficiently.

It must be recognised that human trafficking cannot be managed by measures of exclusion and control only. The emphasis on control, deterrence and immediate repatriation of victims of trafficking is often the beginning of a vicious circle. And awareness must be raised of the fact that State policies that primarily opt for measures of self-protection as opposed to a more comprehensive approach to the issue are counter-productive and therefore part of the problem.

Then there is the problem that in a number of countries there are no institutionalised national structures enabling a coordinated approach on the part of the various ministries and ensuring effective interaction between all the main actors and agencies in the fight against human trafficking.

In many countries there is also a lack of institutionalised cooperation between law enforcement and/or government

and NGOs as the service providers for victims of trafficking. And also the cooperation between the police and the judiciary needs to be upgraded.

Practice has shown that widespread training holds a large part of the answer to the continuing need for spreading understanding. What is called for is thorough training of law enforcement officers, both front-line police and special investigators, of prosecutors and judges, government officials and also vigilant border officials have an important role to play.

Another factor designed to diminish the conceptual confusion over definitions is the process of criminal law reform in which the individual countries must engage vigorously. When countries wrestle with the practical distinctions required to distinguish legally between smuggling, illegal immigration and human trafficking, and various other crimes, they find it necessary to refine and clarify these distinctions.

This has an impact not only on criminal law provisions but also on measures for providing assistance and victim/witness protection. The differences between human trafficking, smuggling and illegal immigration are revealed once more when countries must decide which benefits they will provide to human trafficking victims that they will not provide to smuggled persons or illegal immigrants and why.

In conclusion, it should be firstly underlined that any law, code of conduct, regulation or guideline will be effective only if those concerned understand not just the 'letter' but the spirit of it. Only then will they develop a sense of responsibility and accountability. We must find the means to make people internalise the reality of modern manifestations of slavery, to make them 'see' the problem and really understand it. No presentation of estimates, facts and figures can convey the horror of the stark reality of the trapped individual. People and authorities must be made to understand that human trafficking is about the plight and suffering of people and not about transactions in soulless goods.

Secondly, we should not lose sight of the complexity of the problem and we must prevent at all cost that some people and organisations try to reduce this complexity to a single perspective with which they are familiar or which they are particularly interested in. Some, for example, see trafficking solely as a problem of illegal migration, others solely as a labour market issue, still others solely as a demand-driven problem or solely as a problem of organised crime. This is a tunnel-vision that completely misjudges the complexity of human trafficking and will not lead to a desirable outcome.

Last, but not least, it should be pointed out once again that policies that attempt to deal exclusively with the consequences of human trafficking instead of dealing with its root causes are in any case bound to fail. There is no alternative but to engage with the root causes, no matter how complex, difficult and forbidding they may be. Anti-trafficking initiatives must offer real prospects of escaping from the cycle of poverty, abuse and exploitation.

Human trafficking and the field of practices

Good practices: definition and methodology

In the context of the urgent recommendations to act formulated in the introductory presentation, a manual of good practices appears even more necessary as a tool to guide and inspire action. Yet, given that much of what is being done is either not enough or else fails, how should a manual of good practices locate these 'practices' among everything that is being done at present?

This manual does not purport to offer a series of ready-made recipes for action concerning human trafficking, but rather to offer inspiration for practices that both build on and go beyond the existing ones. It will therefore not provide an exhaustive overview of practices, but will selectively map out some of those available in the field and open a discussion about the modalities through which sharing practices can lead to change. The previous chapter sounded an alarm and urged practitioners to re-think existing practices. The practices selected here will continue to sound other alarms and issue powerful warnings about what should be done and how the nexus of practices needs to be transformed. The field of human trafficking has been continually changing, not only due to the challenges posed by the phenomenon itself – e.g. the more subtle means of coercion used by traffickers – but also due to the efforts of certain actors, especially NGOs, in promoting a human rights approach to trafficking.

However, the human rights component provides an inadequate answer as to what constitutes good practice, as it does not account for how different categories of people and their rights can be affected.⁵ Although designed to protect the human rights of trafficked persons, practices can have indirect effects upon other categories. Moreover, we shall see that the notion of 'human rights' is a value that can acquire different connotations in particular contexts: human rights values also exist in the field of law enforcement.

⁵ Although the manual will speak later of 'subjective positions' in relation to practices, the terminology of the 'human rights approach' will also be used when referring to the practices of various organisations.

How, therefore, do we decide which practices are good and which are not? An analysis of 'good' practices can be carried out initially from two main perspectives, one logical and the other practical.

- From the logical perspective, we can judge 'good' practices according to their coherence, to how they relate actions and values, actions and understandings. Are actions coherent with what is laid down in law? Are institutions coherent in what they say and what they do?
- On the practical side, we can ask how well 'good practices' perform their task. Are 'good practices' efficient? Are there constraints upon their results?

To be able to understand where institutional differences lie and how these could be tackled, it is important to consider the constitutive elements of practices. Definitions of practices have been largely absent from manuals of good practices or other forms of reflection on anti-trafficking practices. Without a definition of practices and of the concepts with which practices may be assessed, any discussion of 'good practices' is problematic.

The commonsensical understanding of practice as a relation between goals and means, between what to do and how to do it, is insufficient both to understand how practices function and to assess what constitutes a 'good practice'. Practices are more than a translation between what and how – they also involve other elements that influence what will be done and the methods employed:

What makes sense to a person to do largely depends on the matters for the sake of which she is prepared to act, on how she will proceed for the sake of achieving or possessing those matters, and on how things matter to her; thus on her ends, the projects and tasks she will carry out for the

sake of those ends, given her beliefs, hopes, and expectations, and her emotions and moods.⁶

Theodore Schatzki has considered the elements mentioned here within four larger categories that make up practices:

Goals

Every practice is mobilised for a goal; every action purports to achieve something. While the ultimate end of anti-trafficking programmes is to combat the phenomenon, the specific goals that underpin them are quite different. One can think of reducing the incidence of violence, illegal migration, poverty or (sexual) exploitation. What we are concerned with here is reducing the visibility of trafficking by bringing it at a level of visibility where it can be dealt with. We shall see that visibility has three components:

- i) Rendering victims of trafficking visible to specialised organisations and authorities, so that they can be assisted in the process of integration and in gaining autonomy.
- ii) Making rights visible by promoting institutional cooperation and the social inclusion of victims of trafficking.
- iii) Making trafficking visible to law enforcement officials and those involved in combating the criminal elements of the phenomenon.

It is under the description of a common goal that institutional cooperation can start. This does mean that differences will vanish – differences still exist over other goals to be achieved and the actions through which to achieve them.

Understandings

An understanding of the problem to be tackled is paramount for deciding upon actions. As practices are modes of intervening to address problems, the understanding of what consti-

6 Theodore R. Schatzki, 'Practice mind-ed orders', in *The Practice Turn in Contemporary Theory*, eds. Theodore R. Schatzki, Karin Knorr Cetina, and Eike von Savigny (London: Routledge, 2001), 52, 42-55.

tutes the problem will enable or limit certain practices. In the case of trafficking, a shared understanding of trafficking is not only lacking but – as we shall see in the subsequent section – is unlikely to be achieved. Even the largely consensual human rights approach can be understood differently by various actors, depending on the specific context in which human rights are applied.

A set of rules

Rules are institutional guidelines, the routines and regulations that guide action and behaviour. The various agents that are engaged in counter-trafficking programmes enter them with their own rules about doing things, as well as with their institutional constraints. The set of rules will ideally clarify the mandates and motivations of those who are cooperating in order to attain common goals.

Values

Values are also important for practices. Actions are undertaken in the name of certain values that can be defined either institutionally or in larger societal terms. 'Human rights' has been one such value. However, values are subject to interpretation, and their understanding can vary in different contexts. Thus, the question 'Whose human rights?' is likely to elicit a series of different answers. In the case of anti-trafficking, the majority of human rights approaches have focused on victims and have attempted to present trafficked persons as the 'exception' to ordinary illegal migrants or even smuggled persons. On the one hand, therefore, human rights have been linked to the perspective of the most vulnerable.⁷ On the other hand, this perspective has to come to terms with other social values. 'Order' can be one such value or the security of the community. It is therefore very important how values are contextualised and the implications of these for practices.

7 This manual will propose a different interpretation of the human rights approach and its implications for of trafficked persons. For more details, see Chapter 6, 'Making trafficking visible', and the Conclusion.

Breaking up practices into four constitutive elements – understandings, rules for action, goals and values – allows us to judge practices according to logical and practical criteria. Coherence, for example, can be applied to the relation between understandings and actions, goals and values, or rules and values. With which understanding of trafficking and which values is the goal of combating human trafficking consistent? Similarly, efficiency can be better understood in relation to the elements of practices. Constraints upon efficiency can be variously due to different competing understandings, diverging goals or rules of actions among institutions. A holistic and concerted approach to trafficking needs to consider the effects of some of these interactions and the impact they might have upon cooperation.

This manual does not intend to oppose 'good practices' to 'bad practices'. Rather than take a moralising approach, the 'good practices' approach makes more sense if it is associated with what are the effective responses to a particular situation. These effective responses should not be considered in a static way, as what can best be done within the specific circumstances. Moreover, there is also a certain immodesty in talking about 'best practices' when so much needs to be done and the responses of the international community to human trafficking are lagging behind the rapid development and multiple facets of the phenomenon. The complexity of practice as considered here – involving actions based on understandings, rules, ends and values – allows for a continuous redefinition and reconsideration of what 'good practices' are. It has often been the case that good ends have not been matched by similar rules or have been hindered by specific understandings or different expectations.

Anti-trafficking is an organised set of practices whose interaction needs to be considered in terms of these levels. The practices selected for this manual share an initial consistency along two levels: an orientation towards ends – that exploitation and abuses of human rights need to be stopped; and a value orientation – that the life and well-being of trafficked persons is paramount. We shall consider what implications

these shared orientations have for understandings of human trafficking, as well as for the rules that guide actions. What concerns us here is how the practices considered can become inspirational through sharing ends and values and the effects this can have upon understandings of trafficking and sets of rules.

Another useful definition of good practices relies rather on questions of efficiency, partnership, sustainability and context:

A “best” or “good” practice can be defined as a creative and sustainable practice that provides an effective response and that can have the potential for replication as an 'inspirational guideline' and contribute to policy development. Initiatives are successful which:

- Have a demonstrable effect on improving people's quality of life or addressing a problem;
- Are the result of effective partnership between the public, private and civic sectors of society;
- Are socially, culturally, economically and environmentally sustainable. Any practice must be adapted to the political, historical, cultural, social and economic context of the society in question.⁸

This definition covers a series of important elements. The first is that of the subjective effects – how practices affect people. The remaining two consider modalities of sustainability.

First, practices that involve partnerships between the public, private and civic sectors are likely to be more sustainable. *Sustainability can be thought here as resulting either from a coherent temporal repetition (practices supported through institutional arrangements are sustained in time) or from 'efficiency' (efficient practices lead to their replication).* As efficiency is often an a posteriori consideration of action requiring monitoring mechanisms and forms of evaluation, temporal

8 UNESCO, Panel discussion on 'Best practices and Strategies to Combat Trafficking in Women and Children in Africa' (Unesco's Anti-Poverty Projects, 2005, accessed 1 August 2005); available from http://portal.unesco.org/shs/en/ev.phpURL_ID=7299&URL_DO=DO_TOPIC&URL_SECTION=201.html#best.

coherence can be an important question to consider when setting up programmes. How is the temporal coherence of practice to be ensured?

Second, practices that are consonant with a specific social context are more likely to be successful. While the emphasis on the context is important – especially for assessing the assumptions with which practices work – it is often the context that can hinder good practices. Thus good practices in the field of trafficking have often had to challenge stereotypes about migrants, prostitutes or even law enforcement agencies. This manual will consider context in relation to the first point, of how practices affect people.

We shall see that trafficked women are not necessarily those for whom practices are devised, though they are those who are targeted by practices. When considering good practices, it is important to consider how they relate to the most vulnerable. Combating trafficking can be done from a variety of subjective positions and perspectives. Yet, the question that every practitioner needs to ask is 'How does it help the most vulnerable?' This is the third level, that of the subjective position from which 'good practices' need to be assessed. Practices do not exist objectively in a field, but are intended for somebody and have direct effects upon people. To the logical and practical level of analysis, it is important to consider a subjective level, that of the effects upon the most vulnerable.

To sum up, good practices have been considered from two perspectives:

- Good practices can be assessed by following three types of criteria: logical (coherence), practical (efficiency), and subjective (how practices affect people, how they deal with the most vulnerable, direct and indirect effects).
- Sustainability refers to coherence of practices in both time and efficiency.
- These criteria can be made sense of by opening up practices into their elements: goals, values, understandings, and rules for action. Coherence refers to the relations between elements, efficiency to how these interact, while effects of practices are dependent upon each of these.

Definitions of human trafficking: implications for practices

Understandings of trafficking and related attitudes are a constitutive element of practices. Understandings and descriptions of human trafficking open up some possibilities for action while closing off others. This chapter has already shown that a distinction between law enforcement and human rights approaches is insufficient, that practices have to be considered in terms of their constitutive elements. Understandings of trafficking show a much wider variety than the description of trafficking as abuse or the violation of human rights. In their relation to actions, goals and values, different understandings of trafficking raise different issues for practices.

As most practices are initially deployed within the confines of a legal framework, the legal definition of trafficking has been of utmost importance. The definition of human trafficking that the UN has enshrined in the Trafficking Protocol is that which has been most widely accepted by practitioners in the field of human trafficking:

- (a) 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this

article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.⁹

This definition has been most recently reiterated in the European context by the Council of Europe. The resulting document, the European Convention on Action against Trafficking in Human Beings, has given special place to the human rights approach.¹⁰

As with any legal definition of a complex phenomenon, the interpretation of the definition of trafficking is dependent upon specific shared understandings. Thus, the legal definition needs to be 'embedded' in an understanding of what sort of social problem trafficking is. The question of 'transportation', for example, would acquire different meanings depending on whether trafficking is seen as mostly a problem of illegal migration and border control. If the problem of exploitation—especially labour exploitation—is emphasised, the mode of transportation is less important; issues of internal trafficking can be considered as well as other responsible persons. The legal definition can therefore be variously embedded within understandings that see trafficking as a problem of organised crime or illegal migration, as a moral problem, a labour problem or a human rights problem.¹¹

Trafficking as a problem of organised crime

This understanding would lead to practices that focus on the police and the judiciary, on the stricter legislation that emphasises the punishment of traffickers. From this perspec-

tive, the 'abuse of migrants becomes fully the fault of traffickers who must be stopped, not the by-product of exploitative employment practices, restrictive immigration policies, and vast economic disparities between rich and poor nations'.¹² Moreover, the position of the victims of crime – and especially of the victims of trafficking – is a very vulnerable one, given the possibilities of further retaliation and stigmatisation. The organised crime understanding is, however, one of the most frequent in anti-trafficking approaches, one that is shared by both NGOs and governments.

Trafficking as a problem of migration

This has been probably the most contested understanding of trafficking. However, the connection with migration remains an important one, recognised in the legal definition of trafficking. This understanding has led to two connected, though different strategies: *on the one hand, a human rights approach that would see 'trafficked women' as an exception to the 'normal' illegal migrants; on the other hand, an approach that shows trafficking to be a direct result of migration policies.* According to the first perspective, human trafficking should not be tackled as a problem of illegal migration, but as a concern with the rights of trafficked persons:

If we want to be effective in diminishing human trafficking, it must not be seen primarily or exclusively from the perspective of national security; fighting human trafficking must not be seen as a fight against illegal migration. It is first and foremost a violation of human rights. So, what is needed is a shift in perspective.¹³

Other researchers have also pointed out that trafficking is linked to the administrative measures that surround restrictive migration policies. Ann Jordan, in a report on 'Trafficking and

9 United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplemented the United Nations Convention Against Transnational Organized Crime (2000).

10 Council of Europe, Convention on Action Against Trafficking in Human Beings (Warsaw, 2005), Article 4. The Convention was adopted by the European Council of Ministers on 3 May 2005.

11 Marjan Wijers and Marieke van Doorninck, 'Only rights can stop wrongs. A critical assessment of anti-trafficking strategies', in STOP Conference (Brussels: 2004), Marjan Wijers and Lin Lap-Chew, Trafficking in women: forced labour and slavery-like practices in marriage, domestic labour and prostitution (Utrecht: Foundation Against Trafficking in Women, 1997).

12 Wendy Chapkis, 'Trafficking, Migration, and the Law. Protecting Innocents, Punishing Migrants', *Gender & Society* 17, no. 6 (2003), 926.

13 Helga Konrad, 'Taking a Stand: Effective Victim Assistance and Protection', in *Taking a Stand: Effective Assistance and Protection to Victims of Trafficking* (Vienna: OSCE, 2005).

Globalisation', has stated that 'irrational, non-transparent, restrictive immigration laws force people who migrate to escape poverty, civil wars, familial violence or persecution into the hands of criminals who too often are human traffickers'.¹⁴ Thus being more effective in reducing human trafficking would entail greater opportunities and channels for legal migration. Legality and the rights that migrants can access when legal (without precluding an extension of rights) can be accessed by those who are otherwise kept in the shadows by the fear of illegality.

Trafficking as a human rights problem

The human rights approach emphasises the need to defend the rights of trafficked individuals and to avoid re-victimisation by the state. The human rights approach emerged as a reaction to the migration approach, which most often resulted in the immediate deportation of victims of trafficking.

Trafficking is an abuse of human rights. It results in the abuse of the human rights of trafficked persons including the rights to: physical and mental integrity; life; liberty; security of the person; dignity; freedom from slavery, slavery-like practices, torture and other inhuman or degrading treatment; family life; freedom of movement; privacy; the highest attainable standard of health; and safe and secure housing. Measures addressing trafficking must place the protection and respect of these rights at their core, as well as the right of trafficked persons to effective redress, including reparation, for the human rights abuses to which they have been subjected.¹⁵

In the ICMPD 2005 Draft of the Regional Best Practice Guidelines, a 'human rights-based approach' means that the National Anti-Trafficking Response (as well as every single measure) should be based normatively on international human rights standards and directed operationally towards

promoting and protecting human rights, especially those of the victims.¹⁶ The ICMPD Regional Guidelines emphasise that human rights should take precedence over other sorts of consideration. However, there is a difference between concerns *for the most vulnerable and concerns for victims. Vulnerability implies the possibility of victimisation, but it can also include larger categories than existing victims.*

Trafficking as a moral problem

The 'moralisation' of human trafficking has mainly been connected with debates surrounding prostitution. However, the debate cannot be limited to one between pro-abolition and pro-regulation, but also involves questions of social value and social morality. Thus the debate has been embedded in what were perceived – rightly or wrongly – to be social values. Sweden, for example, has taken specific measures to criminalise prostitution as part of its efforts to combat trafficking. Of course, these forms of 'moralisation' run the danger of making the victims of trafficking even more invisible. Even if 'moralisation' is not couched in terms of abolition vs. regulation, it brings to the fore the moralisation that surrounds prostitution. In the case of Germany, prostitutes were not allowed to press any charges against their clients until 2001, because of pressures from those active in the field of anti-trafficking policies.

The result of this social moralisation concerning prostitution distinguishes between the innocent victims of trafficking and guilty migrants who must be punished. Wendy Chapkis has argued that such an approach can be labelled 'compassionate conservatism', as it provides assistance and protection for a few by positioning them as exceptions, proving the need for punitive measures against the majority.¹⁷ However, such arguments against moralisation have been resisted by quite a number of other academics and activists. Even if one does not

14 Ann Jordan, *Trafficking and Globalization* (2004). Available from <http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=222852>.

15 Anti-Slavery International and others, *NGOs Statement on Protection Measures for Trafficked Persons in Western Europe* (2003).

16 ICMPD, *Regional Best Practice Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response* (Vienna: International Centre for Migration Policy Development, 2005), 15.

17 Chapkis, 'Trafficking, Migration, and the Law. Protecting Innocents, Punishing Migrants', 930.

engage in the very sensitive debates surrounding the moralisation of trafficking, there are two questions that should be raised in relation to this representation of trafficking and the practices that it supports: is it effective, and does it make trafficked persons less vulnerable? These questions suspend the moral question by pragmatically asking for an assessment of effects.

Trafficking as a labour problem

The focus on 'labour' as the most important element in the understanding of trafficking has been put forth especially by the International Labour Organisation (ILO). The ILO advocates that 'forced labour' should be the over-arching concept – without excluding specific legislation on trafficking – covering a larger span of forms of exploitation to which migrants can be subject, without, however, their qualifying as victims of trafficking. Migrants may enter the destination countries voluntarily, only to become the victims of forced labour or sexual exploitation later on. As the ILO has argued,

They [migrants] can still be highly vulnerable to forced labour exploitation, in particular when they have an irregular status and live under persistent threat of denunciation to the authorities and eventual deportation. Thus, forced labour can sometimes be an indirect outcome of the smuggling process, rather than a direct result of abusive or deceptive recruitment in the origin country.¹⁸

The report of the European Experts Group on Trafficking in Human Beings (EEG), convened by the European Union in 2003, has also identified forced labour exploitation as the 'crucial element' in the Trafficking Protocol. To counter trafficking effectively, the group observes, 'policy interventions should focus on the forced labour and services, including forced sexual services, slavery and slavery-like outcomes of trafficking – no matter how people arrive in these conditions – rather than (or in addition to) the mechanisms of trafficking itself. States should criminalise

¹⁸ ILO, A Global Alliance against Forced Labour. Global report on the follow-up to the ILO declaration on fundamental principles and rights at work (Geneva: ILO, 2005), 46-47.

any exploitation of human beings under forced labour, slavery or slavery-like conditions, in line with the major human rights treaties that prohibit [their] use'.¹⁹

In their most radical statement, the EEG suggests that the distinction between a victim of trafficking, a smuggled person, an illegal migrant and a lawful resident should be irrelevant for a human rights approach.²⁰ From the perspective of labour exploitation, this distinction is superfluous. The ILO has argued, for example, that an emphasis on forced labour and exploitation would help solve the current confusion between trafficking and smuggling, between 'innocent' and 'guilty' victims.

According to the ILO, combating trafficking is not just a matter of 'law enforcement and border control' on the one hand and of a 'human rights and victim-centred approach' on the other or of their simple combination. As trafficking is also a labour market issue, it is important to involve relevant institutions such as trade unions. Several organisations working with the victims of trafficking have realised that employment is an important part of the process of helping victims and combating trafficking. The search for better employment opportunities is often the main reason why people migrate. *To help them escape a situation of 'forced labour' does not mean denying the labour element, but emphasising it, while making sure that the 'forced' element cannot be re-established.*

Trafficking as a problem of global inequalities and globalisation

Saskia Sassen sees trafficking as 'an alternative circuit for survival' and the 'counter-geography of globalisation'.²¹ The term 'counter-geography' refers to circuits that are part of the

¹⁹ Experts Group on Trafficking in Human Beings, Report of the Experts Group on Trafficking in Human Beings (Brussels: European Commission/DG Justice, Freedom and Security, 2004), 53.

²⁰ Experts Group on Trafficking in Human Beings, Report of the Experts Group on Trafficking in Human Beings, 8.

²¹ Saskia Sassen, 'Countergeographies of globalization: the feminization of survival', in Gender Budgets, Financial Markets, Financing for Development (Berlin: 2002).

processes of globalisation and yet unravel in its margins, beyond trade agreements and other regulations. Most of the time, trafficking is linked with the shadow economy, although it might also involve the regular economy in some instances. The people who become involved in these circuits for survival most often come from developing countries, from contexts marked by high unemployment, poverty, bankruptcies of large numbers of firms, and shrinking state resources with which to meet social needs.

The problem of global inequalities is closely related to the representations of trafficking as a problem of migration or a problem of labour (exploitation). The formulation of 'global inequalities' places them in a global perspective which points to the structural conditions that can lead to trafficking. *The question of 'global inequalities' points to the root causes of trafficking and raises questions about global injustice and global action.*

What these different understandings of human trafficking show is that it is impossible to categorise representations and practices using the simple distinction between a law enforcement and a human rights approach. Although some of them are institutionally differentiated, it is likely that the same institution will use several of these representations. The organised crime or migration approaches, for example, can be integrated within a human rights understanding. As victims of crime, trafficked persons receive special protection. As 'exceptions' to migration law, they are the recipients of human rights. Thus, the human rights approach can inform other understandings. Even if the rules of action differ – from the police to NGOs, for example – the goal, the ultimate values and even the understandings would be compatible.

Yet the question raised is whether the practices would be compatible with 'the most vulnerable position'. What does an organised crime approach mean for those who are unwilling, unable or too fearful to testify? What does a migration approach entail for those who are planning to migrate and take up work? These are just two questions that indicate how practices should always be considered from a subjective posi-

tion, in terms of both their direct and indirect effects. It is from this perspective that different understandings can appear compatible, and one should carefully consider how they inform practices. *Practices must not only address 'the most vulnerable', but avoid rendering others more vulnerable.*

What differentiates practices is not the extent to which they adequately represent what trafficking is, but rather in relation to whom they are formulated. The point at which they differ is whom they prioritise. Do they prioritise the most vulnerable or not? What relationship do they create between the vulnerable and the rest of the society? Do they make others more vulnerable? Good practices need not only to prioritise the most vulnerable but also to ensure that they preserve a context of equal rights for everybody. This manual will therefore start by looking at how practices have been formulated in the most sensitive context for the vulnerable, namely victim identification and referral.

(In)visible victims:
identification and
referral

Current Context

One of the main problems in prevention has been the invisibility of the phenomenon of trafficking. Invisibility means both the invisibility of exploitation, which often takes place at the margins of the law, and the invisibility of trafficked persons. Forced labour and trafficking most often take place in the informal economy or at the boundary between formal and informal, where legislation cannot protect the vulnerable or where they are not granted any protection, given that they are not legitimate entrants into the national labour market. Victims of trafficking only become visible when they encounter the law, whether as illegal migrants, prostitutes or petty criminals.

The identification and referral of trafficked persons are important strategies in shedding the invisibility of the phenomenon. Practices of identification and referral ideally ensure that victims of trafficking do not undergo re-victimisation and that they have their rights respected. The NGO Statement on Protection Measures sees 'identification' as the main impediment to the implementation of a human rights approach. They warn that most trafficked persons have irregular migration status and are therefore identified as 'undocumented' or 'illegal', or else work in prostitution and are therefore identified as 'prostitutes'.²²

Without the identification of victims, the whole issue of assistance and protection becomes superfluous. In the absence of adequate identification, victims of trafficking do not have access to either rights or protection. It is important to point out that identification does not exclusively mean 'self-identification' or how victims relate to their personal experiences. Although it is still the case that victims contact the police or other organisations, this form of self-identification is not the most effective. Trafficked persons often do not perceive themselves as victims

and are not aware of the legal implications of the term. Although this manual focuses on the institutional mechanisms and practices of identification and referral, it is important to be aware of a series of obstacles that self-identification poses to victim identification. 'Victim' is in itself a problematic term. Although being increasingly used in criminology studies, evidence indicates that migrant women - even if subjected to situations of exploitation - often refuse to identify themselves as victims. Despite their experience of trafficking, they see themselves rather as migrants or workers who have had bad luck as a result of a bad decision or a bad contract.²³ *It appears that what is so problematic about the term 'victim' is its conflation of structural, psychological and legal meanings.* The other obstacle to identification is the fear of reprisals due to their illegal status, as well as the threats and violence they have experienced. It has been pointed out that clear perspectives about residence and legal status, as well as financial possibilities, are instrumental for effective practices of identification. Moreover, apprehensions about the consequences of illegal status can withhold a victim of trafficking from coming forward and looking for help.

'Identification and referral' will be considered as institutional processes that allow the potential victims of trafficking and related violence to obtain access to programmes of assistance and protection. The onus of identification is therefore on the institutions and the NGOs, not the victims of trafficking, even if, in the process, trafficked persons will probably need to identify themselves too.

This manual does not dwell on the existing modalities and techniques for identifying victims of trafficking, a question that has not yet received a definite answer in the field. It will not discuss the 'signs' that permit an appropriate identification of victims of trafficking. Based on their expertise, various NGOs and law enforcement agencies have already devised

22 Anti-Slavery International and others, NGOs Statement on Protection Measures for Trafficked Persons in Western Europe.

23 Elaine Pearson, Human traffic, human rights. Redefining victim protection (London: Anti-Slavery International, 2002), 32.

guidelines for identifying victims of trafficking. The OSCE/ODIHR National Referral Mechanism (NRM) Handbook offers several suggestions for how to identify victims. At present, the European NGOs Eaves Housing, On the Road, STV and Anti-Slavery International are developing a model protocol for police, immigration officials and policy-makers to interview migrant women to determine whether they are the victims of trafficking and related violence.²⁴

For the purposes of this manual, we emphasise practices of inter-institutional cooperation. As far as institutional mechanisms are concerned, the main questions relate on the one hand to more effective and innovative practices of reaching out to the victims, and on the other to coordinated approaches that would create a secure framework within which suspected victims of trafficking can project a different future. It is within a clearly defined framework of institutional cooperation that identification and referral can be appropriate, effective and consistent with the needs of the most vulnerable. This section will look at how several organisations have made institutional cooperation functional and will discuss some of the disadvantages of cooperation and prospects for its improvement.

Given that victims of trafficking do not often seek help themselves, they are often discovered either by the police during raids or routine checks, or by another party: social workers, health workers, clients, embassies, NGOs, the family. Thus, the modalities of cooperation need to consider institutional cooperation with the police on the one hand and with other parties that might become involved on the other. Besides creating institutional frameworks for cooperation, it is important to reach out to the victims 'in the shadows'. Two such examples of good practices to be considered are hotlines to identify existing, potential and former victims of trafficking and outreach teams to identify victims in a much less invasive way than the police are generally able to do.

24 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', (Helsinki: OSCE/ODIHR and Ministry of Foreign Affairs of Finland, 2004).

Institutionally, however, the adequate identification and referral of trafficked persons relies upon sustained cooperation and a clear framework for action. The OSCE Action Plan to Combat Trafficking in Human Beings recommends that the OSCE participating states establish national referral mechanisms (NRMs) by building partnerships between civil society and law enforcement, creating guidelines to identify trafficked persons correctly, and establishing cross-sector and multidisciplinary teams to develop and monitor policies. The ODIHR NRM Handbook is the most exhaustive document to date that provides useful guidelines for inter-institutional cooperation and other modalities for ensuring the accurate identification and referral of victims of trafficking. In the OSCE definition,

An NRM is a cooperative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society.²⁵

An NRM should incorporate:

- Guidance on how to identify and appropriately treat trafficked persons while respecting their rights and giving them power over decisions that affect their lives.
- A system to refer trafficked persons to specialised agencies offering shelter and protection from physical and psychological harm, as well as support services. Such shelter entails medical, social, and psychological support; legal services; and assistance in acquiring identity documents, as well as the facilitation of voluntary repatriation or resettlement.
- The establishment of appropriate, officially binding mechanisms designed to harmonise victim assistance with investigative and crime-prosecution efforts.
- An institutional anti-trafficking framework of multidisciplinary and cross-sector participation that enables an appro-

25 T. Kroeger, J. Malkoc, and B.H. Uhl, National Referral Mechanisms. Joining the Rights of Trafficked Persons. A Practical Handbook (Warsaw: OSCE/ODIHR, 2004), 15.

appropriate response to the complex nature of human trafficking and allows its monitoring and evaluation.²⁶

In her presentation at the Belgrade Conference, Jyothi Kanics emphasised a series of elements that should be considered as part of a human rights approach in (trans)national referral mechanisms:

- accountability and transparency – downwards and upwards
- sustainability – a focus on long-term improvement
- equity and non-discrimination – efforts should include most marginal groups
- advocacy – data collected should be used to inform advocacy efforts that promote human rights
- participation – efforts should empower partners and those traditionally viewed as 'beneficiaries' should be recognised as stakeholders
- 'do no harm' – planning should anticipate the unintended consequences of all proposed actions, and actions should be chosen and monitored so as to do no harm.²⁷

The points presented here include the subjective and practical elements that define good practices. On the subjective side is the attention to the most vulnerable and to the potential effects in rendering others vulnerable. The other elements can be considered as criteria of effectiveness: a clear distribution of responsibilities, as well as wide participation and sustainability, are likely to lead to effective practices. Adding the criterion of coherence would allow us to judge the gap between statements and practices. To put it simply, are practices doing what they say they are doing?

26 Kroege, Malkoc, and Uhl, National Referral Mechanisms. Joining the Rights of Trafficked Persons. A Practical Handbook .

27 Jyothi Kanics, 'Key Questions to Consider when Developing a Transnational Referral Mechanism', in Ensuring Correct Identification and Adequate Assistance to Victims of Trafficking in Human Beings, ed. OSCE/ODIHR (Belgrade: 2005).

Frameworks for cooperation

Agency for the Coordination of the Protection of Victims of Trafficking (Serbia)²⁸

A State Agency for Co-ordinating the Protection of Victims of Trafficking in Human Beings in Serbia was established in December 2003 as the result of a joint project between the Ministry of Labour, Employment and Social Policy of the Republic of Serbia and the OSCE Mission to Serbia and Montenegro. The Agency started working in March 2004 and acts as a co-ordination centre to organise assistance to suspected victims of trafficking. *The Agency represents one of the first attempts to establish institutional mechanisms at the national level for victim identification and referral in South-Eastern Europe.* It is a coordination body for the process of victim assistance and organises different types of services for them. The Agency also serves as a clearing house of information regarding the available data on medical, psycho-social and legal services for victims of trafficking, both nationally and internationally.

The key role of the Agency within the NRM in Serbia is to respond to all calls from any state or non-state actor regarding suspected victims of trafficking, and to function as the first contact point through which law enforcement, embassies and other relevant institutions can refer victims to the most appropriate care providers. The mobility of the Agency enables its efficient and quick response to the needs of all victims of human trafficking identified in Serbia. Once the Agency has identified the needs of the supposedly trafficked person, she will be referred to the relevant institutions (shelter for trafficked women, safe accommodation, specialised orphanage, etc). The final identification of a victim is done in cooperation with direct service providers during the period of reflection.

28 This presentation is based on the fact sheet of the Agency for the Coordination of the Protection of Victims of Trafficking and the OSCE Conference, 'Ensuring Correct Identification and Adequate Assistance to Victims of Trafficking in Human Beings. National Referral Mechanism (NRM) established and functioning in Republic of Serbia - An Example of Efficient NRM?', Belgrade, 26 May 2005.

The Agency is thus the institutionalised nodal point of the NRM. In the Memorandum of Understanding that has been negotiated on the initiative of the OSCE and that governs its activity, it is stipulated that the Ministry of the Interior shall inform the Agency about each revealed case of possible trafficking and allow the presence of Agency representatives during police procedures. Although not formally signed, the Memorandum has become standard practice for the Ministry of Interior. Thus the MoU has achieved its main objective, namely to ensure the cooperation of law enforcement with other actors (including civil society). Once this initial standard has been set in place, the Agency is considering the possibility of concluding bilateral MoUs with all its strategic partners.

The Agency is the first point of contact for victims after they have been encountered by the police or other actors. It undertakes their identification and a needs assessment and subsequently refers them to the most appropriate assistance provider.

Victim identification and referral

In almost all countries in the region it is the police or the judiciary who formally identify victims of trafficking. Identification is based on valid evidence or victim statements. This leads to many victims remaining unidentified and without access to assistance and protection. In order to avoid this situation, which excludes victims from their rights, the Agency grants the status of a victim of trafficking to all suspected victims.

Based on the initial needs assessment, the Agency creates a personalised plan for victims and refers them to adequate assistance and protection providers. This can include safe accommodation, psycho-social, medical and legal assistance, reintegration programs and voluntary return to the country of origin, based on the specifics of the case.

The Agency is the main co-ordination body in overall victim assistance and protection mechanism in Serbia. In practice this means that it receives and notifies all information regarding victim assistance and protection. This enables it to create and update two databases, one on the process of victim assistance and protection in the country, and the other on

organisations, institutions and experts that provide different types of assistance and support of relevance to victims of trafficking, both in Serbia and abroad.

Legal and administrative issues

The Agency informs victims about their rights in relation to legal and administrative issues. Accordingly, the Agency handles the issue of temporary residence permits and initiates the compensation claims procedure. The Agency is the only state institution that has authority to apply for temporary residence permits for foreigners who are victims of trafficking. According to the regulations, the victim is granted a three-month initial reflection period, which can be extended, depending on the victim's cooperation with the authorities, for up to one year. The Agency has also initiated a number of civil complaints for damages to obtain compensation independently of the ongoing criminal proceedings or filed compensation requests as part of the criminal proceedings.

The Agency follows every case, from identification until the end of the process of reintegration in the country or abroad. Such case monitoring includes collaboration with local, regional and international actors in the field of combating trafficking, especially with those who provide direct assistance. Cooperation does not only allow the Agency to obtain feedback on how best to act, but it also has a 'watchdog' role over the other actors involved in providing victim assistance.

It is the Agency's role to ensure the efficiency of practices through coordination and monitoring. The coordination of inter-institutional cooperation gives it considerable leverage in ensuring that the human rights of trafficked persons are consistently respected by the various actors involved. The monitoring and follow-up of cases can be thought of as modalities of checking the same criterion of the coherence of actions. It is thus the Agency that tries to ensure that the interests of the victim are pursued, that victims are considered as such for the purposes of legal procedures, but also that they are making their own choices for the future.

The Agency has set up practices that have moved identification and referral mechanisms from non-governmental to governmental ownership and from institutional disparity to institutional cooperation. The institutional development of an NRM in Serbia can be described in accordance with the four criteria that the ICMPD has set out for anti-trafficking strategies:²⁹

Government ownership

The ICMPD views this criterion as important for ensuring sustainability through government involvement. Government ownership also ensures that the state is involved not only as a stakeholder, but as the main actor in combating trafficking. The state can allocate funds and institutionalise structures for long-term development. The Agency is a Serbian state institution. Currently it is administratively and physically part of the Centre for the Raising of Children and Young People in Belgrade.

Civil society participation

Civil society participation allows for a representation of different interests in a common forum. NGOs can have a monitoring or 'watchdog' role in relation to state practices. They also have first-hand knowledge of victims' needs and situations. Although it is a state body, the Agency has established cooperation with key NGOs working in the sphere of victim assistance. During the first six months of the Agency's operation, it made field interventions jointly with specialists from its partner NGOs. The NGOs will also be expected to act as quality controllers for the Agency in the future. The Agency is establishing partner relations with all organisations and institutions (whether state, non-governmental or international) who can contribute to the process of assisting the victims of trafficking.³⁰

Human rights-based approach

Institutionalising a human rights-based approach creates the

²⁹ For a discussion of these criteria, see the presentation of ICMPD in Chapter 6, 'Making trafficking visible'.

³⁰ Barbara Limanowska, Trafficking in Human Beings in South Eastern Europe. 2004 - Focus on Prevention (UNICEF/UNOHCHR/OSCE ODIHR, 2005), 256.

space within which different organisations can reshape their practices, being attentive to the victims' needs and respectful of their rights. The key task of the Agency is to pre-screen suspected victims, identify their needs and organise the necessary assistance based on the screening. Thus their approach is a needs-based approach that caters to the individual requirements and contexts of each person.

Sustainability

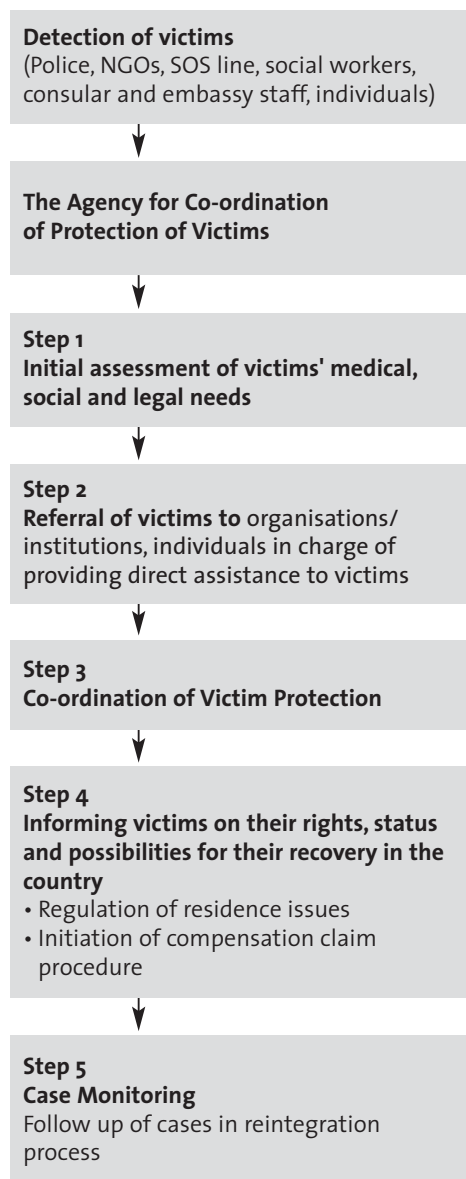
Sustainability is related first to funding and the possibility of long-term projects. Secondly, it also involves issues of cooperation that link up with 'government ownership' in ensuring that cooperation is continuous and that the partners fulfil their responsibilities. The Agency has been co-funded by the OSCE Mission and the Ministry of Labour, Employment and Social Policy since its inception through 31 May 2005. The named Ministry took over full financing of the Agency in June 2005.

Highlights

- The Agency is the first institutionalised framework for identification and referral
- The Agency fulfils the criteria of government ownership, civil society participation, a human rights-based approach, and sustainability
- The Agency has a mobile element and can respond efficiently and rapidly to the needs of victims

The Agency is a nodal point within institutionalised frameworks of cooperation; it has set standards of cooperation with law enforcement through a Memorandum of Understanding

Overview of referral procedures and co-ordination of victim protection in Serbia



Pag-Asa (Belgium)³¹

Belgium has one of the first well-established models for victim identification and referral. Pag-Asa is one of three specialised agencies in Belgium which receives trafficking victims referred from the national authorities.³² They offer a variety of services, including legal counselling, assistance, mental and health care, vocational guidance, referral for job training, shelter and follow-up. Most of the victims are referred by a law enforcement officer or department of inspection that has discovered the victim during an inspection. The potential victim may also be referred to the shelter by other bodies, such as the social services, departments of public prosecution, work complaints courts (*auditorats du travail*), a lawyer, the Aliens Office, private individuals, etc. or that the victim contacts the shelter directly. The specialised shelters for the victims of trafficking in persons offer assistance in psycho-social and medical matters as well as administrative and legal ones. This assistance takes place either in a residential setting or on an 'outpatient' basis. As such, Pag-Asa also has a formal role in the judicial system, being entitled to apply for documents related to residence permits on the victim's behalf, and assisting the victim with information and advice regarding judicial procedures.

Very early on, the Belgian system allowed victims of trafficking to obtain temporary residence permits. Experience in Belgium has demonstrated the importance of establishing, under certain conditions, a special system for granting temporary residence permits to victims of the trade in human beings. Before this system was set up, most of the victims were discovered during crackdown operations carried out

31 The account here of Pag-Asa is largely based on materials provided by Ilse Hulsbosch and her contribution to the Danish Red Cross Conference. Other very important sources have been Aika van der Kleij, Provisions for Victims of Trafficking in Bonded Sexual Labour, i.e. Prostitution - in 6 European Countries - (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom) (Amsterdam: BliN, Novib and Humanitas, 2002), and the internet site for legal resources, <http://www.femmigration.net>.

32 The other two agencies are Sürya (located in the Walloon Region) and Payoke (located in the Flanders Region).

mainly by the police and they received an order to leave the country within five days. At present, it is the Centre pour l'égalité des chances et lutte contre le racisme (Centre for equal opportunities and fight against racism) that coordinates and promotes cooperation between different services specialised in assisting victims of trafficking. As an independent agency, the Centre has an important role in ensuring cooperation as well as in pursuing a human rights approach.

The issuing of residence papers and work permits to foreigners who are the victims of trafficking proceeds in four successive phases, which are directly connected to the judicial procedure:

- The first phase: *delivery of an order to leave the country within 45 days*. This period of 45 days allows the victim to leave the exploitative environment with the help of a specialised reception centre for the victims of trafficking in human beings, in order to regain a peaceful state. During this period, victims can decide whether or not they wish to start legal proceedings against their traffickers or return to their country of origin. It is therefore important at this stage that the police or the inspection service bring potential victims of trafficking in contact with a specialised reception centre. The relevant police service must also contact the Aliens' Office and report that the (suspected) victim has been directed towards a specialised reception centre.
- The second phase: *delivery of a 3-month declaration of arrival*. The victim who has filed a complaint or made a statement during the initial reflection period will receive a provisional residence permit of three months (declaration of arrival/déclaration d'arrivée). During this period, the assistance of the victim by a specialised reception centre is obligatory. The victim can also receive a work permit. The Aliens' Office will be informed, within maximum one month, – of the results of the victim's complaint or a statement by the King's public prosecutor.
- The third phase: *delivery of a certificate of inscription in the register of foreigners*. If the complaint is taken to justice, the victim receives a residence permit of more than three

months (usually six months) which can be renewed until the end of the judicial procedure. Throughout this period, he victim's assistance by a specialised service is obligatory. The victim can, from this phase onwards, obtain a work permit.

- Finally, in the fourth phase, a process can be started at the Aliens' Office with a view to *obtaining a residence permit of indeterminate duration*. This request for a residence permit of indeterminate duration can be made by the victim whose complaint has led to a citation to appear before the court, and in as much as the testimony can be considered significant for the procedure.

The legal and administrative complexity associated with the various forms of residence permit shows the importance of inter-institutional cooperation. The latest modification of the directive of 13 January 1997 stipulates at point 4 a 'dynamics of collaboration' between the police and the public prosecutor's office on the one hand and the NGOs on the other. Cooperation is therefore instrumental at various stages, and as we shall see it needs to be continuous throughout the process of victim assistance.

Referral of suspected victims of trafficking

Most often the police come across a suspected victim of trafficking during raids and controls that target illegally employed workers or illegal migrants. This encounter is decisive for victims of trafficking as, unless the police suspects the offence of trafficking, the victim will be prosecuted for a breach of migration law. If, however, the police suspect that they are dealing with a victim of trafficking, in accordance with the Belgian legislation they must contact the Aliens' Office in the case of both legally or illegally resident suspected victims.

The Aliens' Office refers all victims to a specialised centre for victim assistance. The specialised centre will be responsible for the administrative procedures before the Aliens' Office. Even if the police are not certain that they deal with a victim of trafficking, they still need to contact a specialised centre. This is no longer the case if the police suspect that they are

dealing with a trafficker or a person involved in a trafficking network.³³ A solicitor attached to the general Commissariat for Refugees and Stateless Persons, a civil servant from the Aliens' Office or an outreach or social worker decides whether this is a case of trafficking in human beings.

Victim identification

The next step is to have an admission interview. In principle, one of the three criminologists of Pag-Asa's team takes care of this. However, the most important criteria in deciding whether or not Pag-Asa can offer admission is: 'Can the situation from which the victim has come be considered human trafficking?' The interview usually takes place in the office of Pag-Asa. If the situation requires, the interview can also take place in a police station or an inspector's office. In certain cases, the first point of contact can be a prison, a transit centre or a closed centre for illegal people or asylum seekers.

The admission interview has two objectives. First, it allows the intermediary from Pag-Asa to collect enough information about the situation of the suspected victim. On the basis of this information, the team can take the decision as to whether or not to make an offer of assistance. Secondly, the interview allows an evaluation of the first steps to be taken in counselling and assistance. The content of these interviews can vary greatly from one case to another, but they always contain two elements, that is, listening to the victim's story, and explaining the aid offered by Pag-Asa.

If the case is reported by the police, it is usually clear that a victim has been identified, in which case it may be less important to ask them to reconstruct their history. Therefore Pag-Asa emphasises from the beginning the services it can provide, while making clear that, although working with the

police, it is an independent organisation, which has distinct aims from law enforcement and criminal prosecution. When the case is reported through other channels or when the victim contacts Pag-Asa directly, Pag-Asa needs to evaluate whether this is a genuine victim of trafficking and what forms of aid should be provided. In 2004 Pag-Asa offered legal and administrative assistance to 199 persons (68 of whom were new victims).

Legal and administrative assistance

Although this chapter will not dwell in detail upon the assistance practices of Pag-Asa, it is important to point out that institutional cooperation continues in assistance, especially through the mediation of the Pag-Asa's legal 'cell'.³⁴ Pag-Asa supports and orients the victim in relation to the legal procedures. Such support involves continuous mediation of the relationship between the victim and law enforcement on the one hand and the victim and the judiciary on the other.

Initially, this assistance is largely limited to contact with the police to whom the person has made a statement or complaint, or wishes to do so. If victims decide to lodge a complaint – after evaluation of the advantages and disadvantages, undertaken together with Pag-Asa – Pag-Asa engages a lawyer. Once the enquiry is finished, the public prosecutor decides whether to close the file or not. As this process can sometimes last for months or even years, it is important to set guidelines and regulations concerning the welfare of trafficked persons during this period. *The Belgian model of granting a work permit to victims of trafficking or permitting other forms of education or vocational conversion is indicative of the understanding of the situation of trafficked persons during this period of relative insecurity.*

33 Office des Etrangers, Directives du 13 janvier 1997 à l'Office des Etrangers, aux parquets, aux services de police, aux services de l'inspection des lois sociales et de l'inspection sociale relatives à l'assistance aux victimes de la traite des êtres humains. (2005, accessed 17 August 2005); available from http://www.dofi.fgov.be/fr/reglementering/belgische/overige/omzend_brieven/13011997.pdf.

34 Pag-Asa is divided into three work 'cells', each having different responsibilities: the residential cell, the outpatient cell, and the juridical cell. These cells largely correspond to the three forms of assistance offered: residential, 'outpatient' and legal. The first form is proposed offered to victims who need to get out of the environment where they have been subjected to exploitative practices and have no means to do so. 'Outpatient' assistance is offered to those who feel able to live on their own.

If the file goes on to become a court case, together with the lawyer and the victim Pag-Asa decides whether to constitute the victim as the party claiming damages in a criminal case and to what damages he or she may be entitled. Even if the file is closed, the lawyer can still obtain a copy of it in order to check why it was closed. If it turns out that the case has not been dealt with properly, other means of action can be envisaged.

The victim's residence status is directly dependent on the investigations of the police and the public prosecutor. If the proceedings are suspended, this can have a direct effect on the legal and residential situation of the victim. In this case, the victim protection centre can draw up a social-economic report on that person's situation and present it to the Ministry of the Interior for an individual decision. If the woman has followed integration programmes, speaks the language, has found employment, etc. (i.e. is living like an integrated foreigner), many of them are given an unlimited residence permit.³⁵ One of the procedures of regularisation – STOP – allows for victims to be regularised after a two-year period if the trial has not been concluded and they have been assisted by an organisation.

Besides legal assistance, the legal cell also needs to assist victims of trafficking with other administrative matters. Besides residence issues, Pag-Asa can provide help with everyday administrative matters: travel passes, rules connected with employment offices, the measures needed to obtain a minimum income, affiliation to a mutual benefit society, insurance, etc. Thus cooperation also needs to extend to different local authorities that enter into contact with the victim at the level of everyday life. Cooperation spans the whole network of relationships that relates the victim to the society in which s/he finds her/himself, from extreme encounters with the police, the Aliens' Office or the judiciary to normal everyday encounters with different state or private agencies.

35 van der Kleij, Provisions for Victims of Trafficking in Bonded Sexual Labour, i.e. Prostitution - in 6 European Countries - (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom).

Highlights

- Pag-Asa shows the importance of cooperation mechanisms entrenched in legislation
- Belgian legislation requires the police to refer victims of trafficking to one of the three organisations specialising in victim assistance, even in cases where they are not sure whether it is a situation of trafficking that they are dealing with
- The Pag-Asa model also shows the importance of cooperation beyond law enforcement to the level of everyday affairs and encounters with different administrative and private authorities
- Institutional frameworks can only be effective when processes of interaction have been ongoing and have created mutual trust and confidence

IOM (Ukraine)³⁶

90% of all trafficked persons assisted by IOM in 2005 were identified in Ukraine and not abroad, due to increasingly effective mechanisms for institutional cooperation in respect of identification and referral. The setting up of this response has been major undertaking and process lasting many years, but it has shown to be of major importance in the Ukrainian context. The Ukrainian case speaks more generally to cases of countries of origin, where many of the victims are returned without having been adequately identified.

IOM's overall anti-trafficking approach is designed to strengthen the capacity of the Ukrainian government authorities and civil society to combat the problem of trafficking in human beings effectively. The Comprehensive Programme to Counteract Trafficking in Human Beings 2002-2005, developed by and consisting of NGOs, intergovernmental organisations and government officials, has enshrined cooperation in various areas where

36 Presentation based on a telephone interview with Fredric Larsson (IOM Ukraine), materials retrieved from the organisation's website, <http://www.iom.org.ua>, and discussions with Zsolt Dudas (DRC).

responses to trafficking are needed. These include the creation of reintegration centres providing necessary medical, psychological and legal assistance for victims of offences linked to trafficking in human beings or other violence. In 2002, the Cabinet of Ministers passed a decree that required central, regional and local administrations to develop and approve measures to combat trafficking in persons and mobilise funds to implement actions. For the first time, almost all the local and regional authorities included NGOs as partner organisations in their regional action plans.

IOM plays an important role of coordination within the new framework established for cooperation. Given IOM's efforts, a de facto protection scheme has been created through a network of NGOs. IOM works in close collaboration with the local police and other implementing partners to protect all beneficiaries of its return and reintegration programme. *IOM Ukraine has implemented a concept of 'grassroots identification' through a national NGO partner network.* The NGO partner network has grown from 15 in 2001 to close to 60 in 2005, of which 26 provide direct assistance to victims of trafficking in cooperation with IOM. To date, more than 2100 beneficiaries have been provided with assistance, such as medical, psychological, legal and family support, housing and educational grants. Over 100 training sessions were conducted for NGO staff to maintain and increase capacity.³⁷ This system has provided assistance to a progressively increasing caseload, due to more effective identification and referral mechanisms. As the data gathered by IOM shows, the great majority of victims of trafficking have been referred to IOM for assistance by the NGO network:

37 IOM Ukraine, Counter-trafficking programme description(2005, accessed 20 August 2005 2005); available from http://www.iom.org.ua/index.php?id=53&sub_id=54&public_id=12&action=public_det&wlng=e.

Referring Organisation	2001	2002	2003	2004	2005
IOM missions outside Ukraine	95	108	42	45	32
NGOs ³⁸	129	205	440	552	285
Law enforcement units in Ukraine	30	15	28	9	6
Other	–	4	15	20	1
Total	254	332	525	626	324

The role of the network is not only to provide assistance for reintegration across the country, but especially to permit identification upon return through local means. According to Fred Larsson of IOM Ukraine, approximately 10% of the returned victims call regional hotlines, while the rest are directly identified by national NGOs or referred to NGOs by law enforcement agencies for assistance. IOM has therefore set up a programme through which the partner NGOs are reimbursed on a monthly basis for the costs of victim monitoring and identification. By cooperating and coordinating the efforts of other organisations, IOM has set up mechanisms of identification that work bottom up. Special attention has been given to evaluating the effectiveness of the system for identification, referral and reintegration, identifying gaps and needs in the system while at the same time ensuring that adequate assistance is given to the beneficiaries.

IOM Ukraine and its partner NGO network assisted 328 and 473³⁹ Ukrainian trafficked persons in 2002 and 2003⁴⁰ respectively, the employment level for the 2002 case load at the end of the reintegration period being 65%. In addition, 8% were reinserted into the educational system. For the 2003 case load the employment rate had increased to 81%, with an additional 7% being reinserted into the educational system.

38 Some of the victims have been referred to NGOs by law enforcement agencies. This data was updated on 30 June 2005. See http://www.iom.org/ua/docs/IOMUkr_CTEngStat_05.pdf for more details on the partners in the NGO network.

39 In addition, 4 (2002) and 53 (2003) third-country nationals were assisted.

40 The 2003 caseload is the last annual caseload which has been fully integrated and was provided with assistance in 2003 and 2004.

The numbers of unknowns, i.e. individuals with whom contact is lost during the reintegration process, is an indicator of the quality of the system and the degree of cooperation in place. The figure of 'unknowns' decreased for the 2003 case load to only 2% from 7% for the 2002 caseload, still considering the increased case load during the same period. This was made possible increased capacity, competence and experience within the NGO partner network, as well as by a more developed and consolidated reporting system, achieved through comprehensive training, networking visits and financial and technical assistance to the NGO partner organizations funded through IOM. As the monitoring system improved, the needs, medical, vocational or for protection, of individuals were more easily identified and demands for new types of assistance could be addressed, resulting in a 16% increase in the employment rate. Less than 3% of the 2003 case load returned abroad.

The monitoring of the referral and reintegration process has proved indispensable achieve above results and ensure overall quality control. Through an effective monitoring system programmatic, such as lack of certain types of assistance, as well as case-specific problems, such as security and medical, can be identified and addressed appropriately.

The IOM example shows not only that centralisation and top-down mechanisms are necessary (e.g. government involvement, agreements of cooperation between the police and NGOs), but that bottom-up approaches and local ownership are needed to complement the former. To take just the example of the Ukrainian Red Cross Society, which is a partner in the network, they have 24 regional/oblast organisations, 668 town/raion organisations, and 34,062 primary organisations. The total membership of the Ukrainian Red Cross Society is impressive at 1.5 million. With proper training, some of these humanitarian and social workers could become involved in bottom-up identification mechanisms. For other organisations, capacity-building needs to supplement training. NGOs and their local links appear, therefore, more likely to have knowledge about potential victims of trafficking, to hear stories of returned per-

sons and to offer their services within the area. If the number of identified victims was 56 in 2000, none of whom were identified by national NGOs, in 2005, IOM estimate that they will assist more than 700 victims of trafficking, approximately 90% of whom will have been identified as such by national NGOs.

In the case of Ukraine, one can therefore speak of decentralisation and a bottom-up approach to identification, combined with centralised quality control and monitoring, ensuring minimum standards. Identification no longer happens exclusively from the police to IOM or other NGOs, which provide services, but has become a pro-active strategy. This new strategy of grassroots identification is considered very effective by the IOM, with a substantial increase in the number of victims being identified. Nonetheless, some of the services provided for victims of trafficking need to remain centralised rather than moved at the local level. For example, IOM has established a medical rehabilitation centre in Kiev where victims of trafficking can receive a high quality, comprehensive and confidential examination and treatment for their often complex medical problems, thus adequately responding to the identified need while at the same time ensuring a cost-effective and sustainable approach given the limited resources available.

This strategy of decentralised and local identification could also be effective in cases of internal trafficking. Although not yet considered in the Comprehensive Programme, it is expected that the Ukrainian government will recognise internal trafficking as a problem.

The advantage of such an approach, which both identifies and offers services and help to trafficked persons at the level of the community, most likely addresses those who have family ties and do not want to leave. At the same time, stigmatisation should be avoided. It is often the case that trafficked persons want to move away from their initial area of living and make a life somewhere else. After all, this is the reason why people leave their countries of origin in the first place. Bottom-up or local mechanisms for identification therefore tread a thin line between effective identification and the indi-

rect consequences that this identification may have at the local level. Another issue that needs to be considered regards ownership. Identification and referral are mostly done by local NGOs that receive funding from IOM. A local or de-centralised approach still raises questions of ownership and government responsibility for financing anti-trafficking programmes, as well as for involvement in assistance.

Highlights

- IOM coordinates an anti-trafficking NGO network in Ukraine
- Identification and referral are done 'bottom-up', by involving a network of partner NGOs
- De-centralisation is supplemented by the centralisation of certain services (e.g. providing specialised medical help)
- Bottom-up identification strategies can potentially be applied to other forms of trafficking, especially forced labour-related trafficking or internal trafficking

Hotlines⁴¹

We have seen that identification and referral entail the creation of stable frameworks of cooperation. With different degrees of centralisation, these frameworks envisage the creation of reliable mechanisms of identification. Besides formalising the link between governmental and law enforcement agencies on the one hand and civil society on the other, cooperation has involved the creation of another relation, which can lead to contact between NGOs and victims. One of these modalities is the creation of hotlines.

Hotlines can be a prevention tool and an important element of the national referral mechanisms for the identification of victims. The Stability Pact for South Eastern Europe considers that an important part of prevention is represented by cam-

paigned aimed at clarifying opportunities, limitations and rights in the event of migration so as to enable women to make informed decisions and reduce the possibility of them becoming victims of trafficking.⁴² While it is debatable how uninformed people are about trafficking, what is more often lacking is accurate information about possibilities of legal migration and labour. Even if this type of information can be accessed from embassies and consulates, these are not trusted sources of information, given the restrictive migration policies with which they are associated. Hotlines as a source of information could be a much more useful tool for prevention if the source is seen as based in civil society rather than part of the state/institutions that are connected with enforcing restrictive migration regimes.

In terms of identification, hotlines could help identify existing, former and at risk victims of trafficking. The process of identification of existing and former victims of trafficking can be one of self-identification or one of identification by other actors (clients, family, outreach groups etc.). Other contested issues around the hotlines concern their specificity (should they be trafficking-specific or should they be subordinated to issues around migration and employment abroad). Barbara Limanowska has identified three main forms of help-lines, each with its own advantages and disadvantages:

- Help-lines organised by government agencies, usually Ministries of the Interior or Departments of Migration. Their goal is to provide information about migration and trafficking;
- Help-lines organised by anti-trafficking organisations that aim principally to reach and/or support victims of trafficking. These lines also provide information about trafficking, migration, disappearances and services for migrants;

⁴¹ Help-lines and hotlines are used interchangeably in the texts consulted.

⁴² Stability Pact for South Eastern Europe, National Programmes to Combat Trafficking in Human Beings (National Plans of Action) Background Paper (Vienna: Task Force on Trafficking in Human Beings, 2001), 9.

- Help-lines organised for other purposes (violence against women, child abuse) that also give information about trafficking.⁴³

A trafficking-specific help-line might have the disadvantage of not reaching larger risk groups, namely those who do not self-identify as risk categories. Those people could be less willing to call it for preventive/informative purposes as compared to a general informative help-line. Contact would however be more likely in the case of suspected victims of trafficking either by family, friends, clients or the victims themselves.

Hotlines have been considered important as a first contact or a first step before contacting an assistance centre. Victims of trafficking feel sometimes more comfortable discussing their problems or suspicions over the phone rather than coming physically to a centre and having a face-to-face conversation. They can be an effective form of contact between NGOs and victims of trafficking. There are different practices about whether a hotline should be unique nationally or whether there can be different local numbers. In the absence of clear statistics, it seems that a national number would be more visible – especially in countries of destination where victims might not have access to TV and other means of communication and might find out the information by hearsay. Ukraine, for example, has a combination of both national and local numbers. What is most important about any help-line is that it is toll-free so victims of trafficking can access it from anywhere, including public phone booths.

Hotlines require specialised staff who is appropriately trained to be able to identify 'signs' that they are talking to a victim of trafficking, but also to provide emergency psychological counselling and to be able to retrieve as much information as possible about the location and the situation of the victim. Hotlines also need to be able to provide relevant information and to refer those who call to the most appropriate services.

43 Limanowska, Trafficking in Human Beings in South Eastern Europe. 2004 - Focus on Prevention,33.

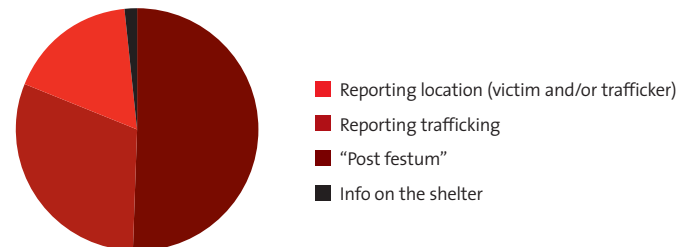
ASTRA (Serbia)⁴⁴

ASTRA is a local NGO in Serbia which operates a SOS hotline specialised for victim assistance and human trafficking prevention.⁴⁵ The SOS hotline has been designed so as to provide information on the problem of trafficking in human beings and on possibilities for legal migration and legal work in foreign countries, as well as to provide legal counselling concerning job hunting and employment, support and understanding to the victims of trafficking and their families. Victim assistance is based on the organisation of accommodation for victims in the shelter, psycho-social and legal counselling, medical help, HIV/AIDS and STD prevention, as well as accompanying the victim through legal proceedings and the reintegration process. Basic activities in that respect are hotline counselling, field actions and contacts with institutions, NGOs and international organisations dealing with this issue in the region. ASTRA keeps a database on all received calls.

Identification of victims

Since March 2002 until March 2005, the SOS hotline received a total of 2,509 calls from 712 clients, out of which 142 women and children were registered as victims of trafficking. The hotline allows for victims to be identified at different stages: a priori to the trafficking process, during and a posteriori.

Calls directly relating human trafficking

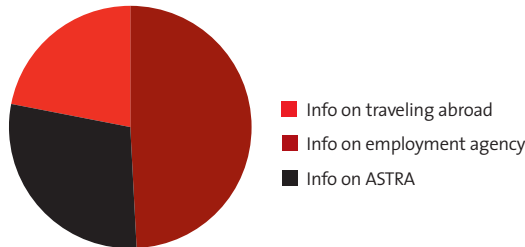


44 Presentation based on ASTRA's contribution to the DRC Conference and ASTRA's website, <http://www.astra.org.yu/index.php>.

45 ASTRA has programmes for prevention and education, victim assistance, cooperation, and research.

Although the effectiveness of help-lines for identification purposes has not been much researched, the ASTRA charts show a preponderance of trafficking related calls.⁴⁶

Calls of preventive nature



Other calls



Calls reporting missing persons who are indicated as suspected victims of trafficking are processed according to the information available:

- If there is no information available about the victim's whereabouts, where s/he was last seen, whom s/he talked to, whether someone offered her a job, etc., such a client is identified as suspected victim until the moment when investigation or some new findings confirm that such person is a victim of trafficking.

⁴⁶ Barbara Limanowska's claim about the (semi-)inefficiency of help-lines as tools for identification is reversed by the data provided by ASTRA: '[A]ccording to help-line statistics, the vast majority of calls are so-called "preventive and informative calls", while contacts with victims of trafficking, their friends or families make up only 10-20% of the calls', Limanowska, *Trafficking in Human Beings in South Eastern Europe. 2004 - Focus on Prevention*,³²

- If there is partial or full information available on the mode of recruitment and the location of the victim, such a client is identified as suspected victim of trafficking. The identification process is guided by the following criteria:

- Whether the person in question is in a situation of violence;
- Whether the victim is under repression;
- Whether the victim is free to go, i.e. whether s/he depends on the trafficker(s);
- Information on the manner of recruitment or transportation of the victim, as well as information on whether and whom s/he has contacted. It is however unrealistic to expect that the person reporting someone missing should have full insight into the victim's situation.

- In cases when ASTRA is contacted by persons who managed to escape from a situation of violence, victim identification is carried out in accordance to the following criteria:

- Whether s/he was coerced into prostitution through the use of deception, force, threats or violence; whether exploitation was involved;
- Whether s/he was forced to give up income from her/his work (through the use of deception, force, threat or violence);
- Whether s/he had access to personal documents;
- Whether s/he was isolated and under permanent surveillance by the trafficker;
- Information about the trafficker, recruitment, transportation of victim are also relevant for identification;
- The time lapse between the moment the victim managed to escape from the situation of violence until s/he contacted SOS hotline is not considered relevant for victim identification (SOS hotline receives calls from women/men who managed to escape from the trafficking chain even ten years before).

Prevention of trafficking

The SOS hotline has, inter alia, a preventive role in terms of providing accurate information on human trafficking. Given

the close connection of trafficking and migration, ASTRA also provides information on legal migration through preventive and educational counselling and communication with people who wish to emigrate, information on visa regimes in different countries, information about the documents required for certain job contracts in the country of destination (education, recognition of diplomas, validation requirements, etc.), and information on documents required for continuing education in the country of destination. Due to potential abuses and fraud, whether or not related to human trafficking, ASTRA's lawyers provide free legal assistance. They provide information about labour legislation in a certain country, examine the job contracts offered, explain the contractual clauses and assist ASTRA's clients during legal procedures. Thus ASTRA can assist clients who plan to go abroad for the purpose of education, employment, marriage, etc. – most often through the intermediary of agencies – to ensure that they migrate legally and safely.

Highlights

- ASTRA operates a hotline that offers both trafficking-specific counselling and information, as well as more general information concerning legal migration and employment
- Hotline: tool both for prevention and victim identification

Outreach teams and social mediators

A much less discussed and researched tool for victim identification and referral is that of 'outreach teams'. Although restricted at the moment to countries of destination, they could be an effective tool – with the modifications required by the specific context – against internal trafficking. Outreach work is carried out through fieldwork or street work, often for the purpose of providing health education to persons active in the sex industry. The outreach, mobile or street teams are an example of flexible methods for identifying victims. By visiting the prostitution areas directly, and by providing easily accessible services, these activities have proven to be very

useful in contacting and identifying trafficked persons within the reached target group.

A Report on assisting victims of trafficking, commissioned as part of the Daphne project, lists 'specialised' street groups and 'drop in centres' as important first contact points with the victims.⁴⁷ While mobile or outreach teams were first formed to provide medical assistance and moral support to sex workers, these groups can now play a key role in identifying victims of trafficking. The associations also function as interface and mediator with social services or associations offering services and care.

The role of outreach units is mostly to inform vulnerable categories of their rights. Outreach units depend on the possibility to have access to different areas where vulnerable workers can be. They have been most effective in relation to street prostitution. It is however unclear how outreach teams could function for other areas of potential labour exploitation, e.g. domestic work.

Given that they provide services more generally to prostitutes – especially those involved in street prostitution – outreach teams are restricted to countries where street prostitution is visible. Outreach teams could however play a role outside their initial field of action. The question is how social workers could 'reach out' to other areas where exploitation is visible, both from street to off-street prostitution, as well as from prostitution to domestic labour for example. Especially in the context of increased trafficking for other forms of labour, can the concept of outreach units be extended to address other forms of exploitation and forced labour?

On the Road (Italy) and Tampep (Italy)⁴⁸

On the Road and Tampep are two of the several organisations in Italy which have set up outreach units. These units have been

47 Georgina and Marengo Vaz Cabral, Federica, *Assisting Victims of Trafficking in Human Beings* (Paris: CCEM, 2003).

48 Information compiled from documents retrieved from <http://www.ontheroaddonlus.it> and <http://www.europapap.net>.

common practice with NGOs working with prostitutes. The Associazione Tampep for example was set up as part of an EU *research-intervention project called Tampep (Transnational Aids & STD Prevention Among migrant prostitutes in Europe)*, which was financed by the European Commission DG5 in the framework of the 'Europe against Aids' program. Tampep is currently present in 21 European countries. In Italy, it has as reference the Committee for the Civil Rights of the Prostitutes. The Tampep working group constituted itself as an association in 2001.⁴⁹ On the Road was born in 1990 as a volunteer association to intervene in the areas of prostitution and trafficking. The concept of outreach or mobile street units for the purposes of identification has been 'transferred' to human trafficking from larger fields of concern.

The Tampep social workers and cultural mediators informed prostitutes about HIV and sexually transmissible diseases. They provided information on contraception, how to deal with bad customers and how to guard oneself against attacks during street work. In addition, the social workers informed the target group about Italian law and about how/where one can have access to the social services. The On the Road outreach units developed similarly, providing health and legal information to prostitutes.

The outreach units are therefore doing exactly what their name indicates: they reach out to people working in street prostitution. These units provide information on health care and health care services, available services, legal, psychological and housing matters and can accompany prostitutes to these services. The units also offer aid to those wanting to leave prostitution, violence and exploitative conditions, accordingly to the provisions offered by Italian law.

The objectives of the outreach teams are to create a relationship of trust with women and minors involved in both street

49 Rosanna Paradiso, Luisa Vergnano, and Laura Saporta, Ukin Report. Tampep Project for UNICRI (Turin: UNICRI, 2004).

and off-street prostitution, to reduce health risk through information, to offer information and guidance on possibilities of leaving prostitution, and to sensitise the local authorities towards the problems of prostitutes. The activity of mobile teams is also instrumental for achieving contact with victims of violence and of trafficking in human beings.

The On the Road outreach units provide a series of activities that range from assistance to research into the phenomenon of prostitution:

- Observation and mapping out of the phenomenon;
- Contact, listening and needs analysis;
- Information on health care;
- Accompaniment to health services and educational training to access local services;
- Information and assistance in legal, psychological, and housing matters;
- Offer of aid in response to a request to leave prostitution and violent and exploitative conditions;
- Awareness intervention and conflict management for local communities;
- Mapping, contacting and awareness of territorial services;
- Observation and monitoring of the dynamics of the phenomenon;
- Production of information materials, in Italian and in the main languages spoken by the target population.⁵⁰

As part of the outreach activity, 'contact work' has a central role. Through contact work a relationship is established with the target group/person. The type of contact, its structure, and the degree of real communication vary significantly. The contact work ranges from brief contacts for the presentation of On the Road or offers of condoms and information materials to more

50 Regione Emilia Romagna and Associazione On the Road, Article 18: Protection of Victims of Trafficking and the Fight Against Crime (Italy and the European Scenarios). Research Report (Martinsicuro: Edizioni On the Road, 2002), 249.

important contacts that attempt to establish a more stable relationship. The health care activities have a double value: on the one hand they pursue harm reduction and on the other they build up contacts and relationships with the prostitutes, establishing protection and social integration programmes.

Françoise Guillemat from Cabiria in France, another NGO that has done important outreach work, has pointed out that friendly relations become reinforced when members of the outreach teams accompany the women to medical consultations. 'For example, when a member of the team is in a medical waiting room, we discuss a lot and they explain many things'.⁵¹ It is only in time and through renewed contact that a relationship of trust can be established. Of course this type of long-term contact is beset by the mobility of prostitutes who often move from one area to another. *Unlike hotlines, which often work with a one-time call and contact, outreach units have the possibility of building contacts over time, creating trust and allowing the potential victims to 'come out' and self-identify.* They do so without any time pressure upon those who want to exit an exploitative situation.

Outreach units are also interesting for their work with cultural and social mediators. On the Road and Tampep share a methodology of cultural mediation. The work with cultural mediators is important for creating a relationship of trust with the clients, as well as for understanding their constraints and situations and making sure the information reaches them in their own language. The On the Road mobile team has two cultural mediators, one Albanian and the other one Nigerian. The Tampep mobile unit in Genoa included two prostitutes (one as a local coordinator and one as a field worker) and two cultural intermediaries (one Nigerian and the other Slavic). Cabiria, a member of Europap/Tampep in France, has also been working with cultural mediators to communicate with foreign prostitute women.

51 Françoise Guillemat, 'Presentation of Cabiria: Fieldwork, research, university', in Regional Conference on Trafficking in Human Beings in Central, Eastern and South-East Europe (2003).

The presence of these cultural mediators who share the same origin, language or experiences as the women on the street is of high importance. Without them we would not be able to make any contact and create confidence with us. Generally these women do not require spontaneously support from us because they are afraid that we could collaborate with the police. Thus, when the cultural mediators establishing a kind and friendly relationships with them, they are less frightened and their demands can be expressed.⁵²

The outreach units of On the Road distribute a range of publications in different languages (Italian, English, Albanian, Romanian and Russian) and invite the women to visit the three drop-in centres run by the Association, where they can be accompanied to health services. This part of the work was very important for raising awareness about existing services. Further support is then available in the drop-in centres, e.g. legal and psychological advice or programmes of social inclusion.⁵³

The 'mapping out' work has as its objective to observe and make estimates of the prostitution work going on in the areas in which the mobile team operates. Mapping out offers a quantitative rather than qualitative observation of the phenomenon, as well as an idea about the flux, changes and structuring of the prostitution work.

Another objective of the mobile team is to create networks in the area. Moving prostitution behind closed doors by law without a serious discussion on trafficking and prostitution and the implementation of proper social policies would probably contribute to seclude women in places not reachable by street and social workers nor by law enforcement officers

52 Guillemat, 'Presentation of Cabiria: Fieldwork, research, university'.

53 Associazione On the Road, *Includendo: dall trafficking all' inclusione. Relazione semestrale, 17 maggio 2004 - 16 novembre 2004* (Martinsicuro, 2004).

and, consequently, it would be rather difficult to identify and help victims of trafficking and exploitation.⁵⁴

In 2004, the On the Road outreach units started a programme for making contacts with indoor prostitutes and suspected victims of trafficking. This project is important especially given that street prostitution is becoming increasingly more hidden, pushed towards places which are less visible and also less safe and that there is a steady shift of prostitution indoors to flats, hotels, massage centres, etc. The risk is to lose the possibilities of mapping out the areas, their state of flux (arrivals, departures and prolonged stays), and provide information, help and opportunities in various forms to the people involved in this phenomenon. Thus outreach practices to the more hidden and indoor prostitution present itself as a necessity to be able to connect and inform people of their rights.⁵⁵

Highlights

- Outreach or mobile units use social workers and cultural mediators to intervene in fields where trafficking can happen
- Objectives: create a relationship of trust with target groups (contact work), inform target groups about their rights, network with other agencies locally, and provide information on the phenomenon
- Intervention based on rights
- Potential for extension to other forms of trafficking and forced labour

Raising questions, thinking further

The most obvious characteristic of the practices and organisations discussed so far is that they are attentive to the posi-

tion of the most vulnerable categories. Practices have therefore been set in place from the standpoint of the trafficked victims. This does not mean that these good practices do not raise a series of questions.

From the perspective of coherence, practices of identification and referral need to remain consistent with the values of human rights. Yet, practices of victim identification tread a thin line between help to the vulnerable and intrusive methods of surveillance. When considering ways of improving strategies for victim identification, one should avoid generalising surveillance and intruding on the privacy of individuals. The ICMPD draft guidelines on best regional practices mention at least two strategies whose implications need to be carefully considered:

- The development of monitoring systems for the different sectors in which victims can be found (i.e. the sex market, high-risk sectors of the economy, etc.) in order to detect forced labour or services through joint controls and information-sharing by the police, labour inspectors, NGOs etc.
- The periodic renewal of sanitary cards required for everyone working in bars and restaurants to monitor the potential trafficked status of employees. The training of medical staff in operating these procedures in identifying possible victims. In the course of these regular checks, leaflets on the available services (including information on the toll-free hotline number) could also be distributed.⁵⁶

The objective of identifying the most vulnerable can be undermined by the practice of extending surveillance to other economic sectors where labour exploitation is possible. Imposing stricter controls in different areas or upon different people (such as health checks) risk driving irregular labour further underground. This can have the effect of rendering these categories of people even more vulnerable and less visi-

54 Isabella Orfano, 'Italy', in Research based on case studies of victims of trafficking in human beings in 3 EU Member States, i.e. Belgium, Italy, and the Netherlands, ed. On the Road Payoke, and De Rode Draad (Brussels: European Commission, 2001), 185, pp.

55 Bufo, Marco and Orfano, Isabella, Marginalia. Between the lines. outside the margins. Multi-dimensional readings and responses to social exclusion (Martinsicuro: Associazione On the Road, 2003).

56 ICMPD, Regional Best Practice Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response.

ble. It is exactly in relation to this point that the work of the outreach units has proved so innovative. Outreach teams can build up long-term contacts with different vulnerable categories, without enforcing any legislative measures.

Social workers attempt to guide vulnerable people – whether or not victims of trafficking – and help them obtain access to their rights. An important question to consider is the subjective position from which these modalities of 'mapping out' or 'surveillance' are being undertaken. If undertaken by law enforcement or even labour inspectors whose aim is to curb illegal employment or prosecute them, they are simply less likely to be successful. Relationships based on trust and support are more likely to lead to the identification of victims of trafficking and other forms of exploitation.

Rather than the increased surveillance of specific economic sectors where trafficking is more likely to occur, a more appropriate and just framework of action is to ensure rights for the people working in these sectors. Thus, Anti-Slavery International has advocated the necessity of rights for migrants, while the ILO supports the drawing up of standards in the informal economy. One can think of these approaches as seeing human trafficking as the 'tip of the iceberg' that reveals a much larger reality of exploitation. Identifying victims of trafficking should not render other people more vulnerable, nor should it exclude them from the possibility of exiting exploitation.

Bärbel Heide Uhl, a member of the EEG, has also pointed out some of the human rights issues related to better identification and knowledge of victims of trafficking:

The demand for better statistics and data exchange would lead to the creation of databases on trafficking that stored information on trafficked persons. Once having been referred to a victim support programme, a trafficked person might lose control over his or her personal data, including name and date of birth. The person also might not be informed that his or her data were stored in a computer information system that would lead to denial of re-entry

into the country. Moreover, the transfer of the personal data between law enforcement agencies in countries of destination to countries of origin for prosecution purposes may cause social stigmatisation and legal [repercussions] for the trafficked persons after their return.⁵⁷

Practices of victim identification may have indirect negative impacts upon victims of trafficking. Creating databases can be important for both research and monitoring purposes. However, the transfer of these databases to other agencies can lead to serious infringements of the rights of trafficked persons.

The question of indirect effects needs to be also considered in relation to the frameworks of cooperation. We have seen that establishing NRMs is an important mechanism for centralising and institutionalising victim identification and referral for assistance. Although different civil-society actors are involved, an NRM ideally has a coordination unit. In the case of Belgium, mechanisms of identification and referral are simplified by the geographical delimitation of NGOs that are cooperating with law enforcement.

IOM Ukraine has followed a different strategy, which can be called 'decentralisation' or a bottom-up approach. Although IOM Ukraine agrees on the importance of having some centralised services, victim identification has mainly followed a 'grassroots' approach. While IOM Ukraine's efforts have been quite effective in increasing the numbers of victims who have been identified and referred for services, other concerns relate to confidentiality and related stigmatisation within the community, which 'sub-contracting' services to local NGOs can lead to. The experience of NGOs shows that shelters do not fare very well within a community if they become known as such. While some trafficked persons might want to be reunited with their families and return to their own regions or small community, other victims of trafficking might want to relocate and start a new life somewhere else.

57 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 74.

In all the cases considered, frameworks for cooperation create alliances between highly diversified stakeholders. Besides their concern with trafficking, the strategies with which they approach the phenomenon can be very different. Both Pag-Asa and ASTRA have emphasised their divergent aims. However, no cooperation can be established without some minimal common ground. Victim identification is the first common goal that all institutions can share, even though subsequent objectives may diverge. Making victims visible serves to draw attention to the problem of trafficking and activate different anti-trafficking strategies.

To ensure coherence among the practices of different actors regarding identification, coordination is of the utmost importance. Such coordinating agencies exist in the case of both Serbia and Belgium. The Agency for the Coordination of Victim Protection in Serbia was set up at the initiative of OSCE to include governmental and non-governmental representatives. In Belgium, the Centre for Equal Opportunities and the Struggle against Racism was set up jointly by the government and parliament, but it enjoys an independent status from all the actors involved in anti-trafficking.

Coordination for the purposes of victim identification and referral can also be done at the micro-level by setting up mobile teams made up of NGO representatives to screen victims of trafficking. The Croatian Red Cross is currently implementing a project in collaboration with the Norwegian Red Cross and the Danish Red Cross to fight trafficking in Croatia, which will include three mobile teams.⁵⁸ By bringing together different representatives of civil society who are available for screening, suspected victims of trafficking can create an authority which individual organisations often lack in dealing with law enforcement. As starting a process of cooperation is often most difficult, especially when the positions of institutional actors are very different, mediating actors could be very

58 For more information on the activities of the European Red Cross/Red Crescent Cooperation in response to trafficking in human beings, see <http://www.redcross.dk/sw32567.asp>.

helpful. For example, the Red Cross national societies, in being both auxiliary to the public authorities but also independent, are in a good position to cooperate with both law enforcement and civil society in creating the initial mediation for setting up cooperation mechanisms.

Yet victim identification cannot be separated from other anti-trafficking strategies. Victim identification can be related to practices that try to reinforce victims rights or are targeted towards punishing the traffickers. While these two processes are not mutually exclusive, they are not necessarily consistent with the human rights of trafficked persons. Logically, punishing the trafficker does not necessarily mean ensuring more rights for his victims: it does not entail greater safety or better life opportunities. Moreover, if efficiency is considered, victim identification teaches us once more the lesson that good practices need to be assessed from the subjective perspective. Anti-trafficking strategies are more likely to resonate with the victims and help them exit the situation of exploitation if they make clear their rights and provide assistance for them.

Practices of victim identification also need to keep up with the changing realities of trafficking. According to Marco Bufo of the Italian NGO On the Road, 'the traffickers are employing and adopting much more sophisticated trafficking and exploitative strategies, by allowing, for example, victims of trafficking to enjoy more freedom or to retain a part of their earnings'.⁵⁹ This makes it more difficult for the victims to identify themselves or press charges against the traffickers. The definitions of the means of recruitment can thus become inadequate, while the concept of 'exploitation' needs to be more clearly defined.

Although this chapter has shown that institutional arrangements for cooperation function well in different settings that are more or less centralised, the practices considered also

59 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 89.

raise issues about ownership. The Agency for the Protection of Victims of Trafficking is characterised by government ownership. Anti-trafficking practices in Ukraine are still largely under the ownership of IOM. Government ownership does not necessarily need to function directly, through the involvement of a Ministry or other governmental agency. For example, in Belgium the Centre for Equal Opportunities and the Struggle against Racism, as we have seen an independent body set up jointly by parliament and government, is in charge of coordinating anti-trafficking responses and monitoring the performance of NGOs.

Making rights visible:
operational issues for
assistance and
protection

The current context

Assistance and protection, although treated separately here, can be considered to form a continuum with identification and referral. Without clear perspectives for trafficked persons, identification is likely to be less effective. This manual will therefore focus on some of the innovative practices and operational issues relating to the assistance of all trafficked persons rather than on the special provisions for the rights of victims as 'victims of crime' in criminal proceedings. The human rights of trafficked persons can be considered from a double perspective:

- Universal human rights that should apply to everybody. This concerns rights entrenched in the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- Specific rights that apply to vulnerable and marginalised groups, as well as to victims of crime. These go beyond the formulation of economic and social rights more generally to target specific groups for purposes of inclusion and/or restorative justice.

While there is a general consensus on universal rights, the question of specific rights, especially in relation to the needs of vulnerable groups, is still very much subject to debate. Rights concerning the welfare of vulnerable groups (e.g. the right to work, to social inclusion, health care, etc.) raise the issue of membership in different national communities. If every individual is a bearer of universal human rights, specific rights (e.g. the right to work, rights to social inclusion) are granted to members of a community. It is only as an 'exception' to the category of illegal or irregular migrants that trafficked persons can be granted these special rights. Welfare is a highly debated issue, and the right to work is very sensitive at present. The right to work is held by citizens and other specific categories of legal residence. As it is not immediately a right for trafficked persons – although instrumental for social inclusion – questions of residence and residency rights need to be considered in conjunction with rights for vulnerable groups. Despite injunctions that all victims of trafficking should be

afforded the rights and freedoms entrenched in the European Convention on Human Rights,⁶⁰ it has been mostly NGOs that have been concerned with issues of social inclusion. It is, however, only in the context of residence rights that NGOs in countries of destination could administer programmes of social inclusion. In countries of origin, social inclusion and specific rights for victims of traffickers have also been left to the good will of civil society organisations, mainly given the lack of state resources for the integration of marginalised categories. While it is true that civil society is well-placed in terms of having access to the victims and providing assistance and support,⁶¹ NGOs cannot bear the onus of enforcing human rights. Clear models of institutional cooperation and task-sharing, including state involvement, are therefore necessary.

This chapter will therefore discuss three main issues that have emerged in relation to victim assistance and protection. First, specific frameworks of cooperation need to share responsibilities between different institutions. This is most important in relation to the second point, namely residence rights that can lead to other programmes of social inclusion. The question of residence is most relevant in the case of countries of destination (and transit), where victims of trafficking are not members of the political community. Finally, the chapter will analyse the potential of employment for social inclusion and integration.

The Council of Europe Convention has adopted two articles to serve as guidelines on granting residence rights. Following the reflection period of at least thirty days, Article 14 recommends granting renewable residence permits to victims, in one or other of the following situations or in both:

60 OSCE/ODIHR, Recommendations of the Conference 'Ensuring Human Rights Protection in the Countries of Destination'. Breaking the Cycle of Trafficking (Helsinki: OSCE/ODIHR Ministry of Foreign Affairs of Finland, 2004).

61 OSCE/ODIHR, Recommendations of the Conference 'Ensuring Human Rights Protection in the Countries of Destination'. Breaking the Cycle of Trafficking.

- the competent authority considers that their stay is necessary owing to their personal situation;
- the competent authority considers that their stay is necessary for the purpose of their cooperation with the competent authorities in the investigation or criminal proceedings.⁶²

To these conditions, ICMPD has added a social one, namely that a social assistance program has been successfully completed and employment has been found for the victim.⁶³ As the discussion of Pag-Asa has shown, this path is already available in Belgium.

Issues about residence and access to citizenship intervene in considering rights for vulnerable groups leading to 'social inclusion'. Effective measures for inclusion have been devised in the wake of a growing awareness about the root causes of trafficking and the possibility of a vicious circle of trafficking being created due to poverty and social exclusion. The EU's earlier concerns with social exclusion and inequalities within the Union have recently been raised in the case of victims of trafficking. The European Commission has defined 'social exclusion' as

the multiple and changing factors resulting in people being excluded from the normal exchanges, practices and rights of modern society. Poverty is one of the most obvious factors, but social exclusion also refers to inadequate rights in housing, education, health and access to services.⁶⁴

Social exclusion is therefore a multifaceted notion that refers to individuals and societies, to disadvantage, alienation, and lack of freedom. Trafficked persons experience exclusion most acutely as poverty and social marginalisation. Inclusion through

62 Council of Europe, Convention on Action Against Trafficking in Human Beings.

63 ICMPD, Regional Best Practice Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response.

64 European Commission, Background Report: Social Exclusion – Poverty and Other Social Problems in the European Community (Luxembourg: Office for Official Publications of the European Community, 1993), 1, ISEC/B11/93

labour market integration seems to provide a useful strategy in overcoming both forms of exclusion. Employment provides a trafficked person with financial stability and makes them part of the community, not as a 'victim' but as a full-fledged participant in it. It also provides a certain social status and an income. Access to the labour market entitles individuals to the rewards and economic rights that are prerequisites for full citizenship.⁶⁵ Social inclusion thus needs to ensure the consistent participation of the trafficked person as an agent who makes decisions about his or her own life. On the Road has argued for the possibility of social inclusion through work:

Work in fact represents the opportunity, for many people, to overcome that invisible, yet very tangible, divide between inclusion and exclusion, that very subtle borderline that separates the many kinds of exclusion from grasping of opportunities. Work, beyond the debates and analyses on its nature and changes, on the freedom and dependence that it creates, individual and collective ones, represents the narrow gate to access to a citizenship free from oppression, that can be coloured with the grasping of new life opportunities.⁶⁶

Assistance and protection therefore require extensive resources to be able to combat exclusion. The Council of Europe Convention on Action against Trafficking in Human Beings makes it incumbent upon member states to adopt legal and other measures to assist victims in their physical, psychological and social recovery.⁶⁷ Earlier the Stability Pact for South Eastern Europe had framed these measures and responsibilities in terms of finance and resource allocation:

Governments need to allocate resources to provide comprehensive programmes designed to re-integrate victims of

65 Ajit, Bhalla and Lapeyre, Frédéric, 'Social Exclusion: Towards an Analytical and Operational Framework', *Development and Change* 28 (1997), 419

66 Orfano, 'Italy', 191.

67 Council of Europe, Convention on Action Against Trafficking in Human Beings.

trafficking into society, including through actively preventing stigmatisation, job training, legal assistance and health care and by taking measures to cooperate with non-governmental organisations to provide for the social, medical and psychological care of the victims.⁶⁸

In neither countries of origin nor countries of destination can long-term projects for combating social exclusion, and more specifically the exclusion of trafficked persons, be implemented without a concerted approach by civil society and the state. As pointed out in the previous chapter, institutional frameworks for cooperation are necessary to allow access by trafficked persons to mechanisms of assistance and protection.

Inter-institutional cooperation is also an indispensable part of programmes of assistance and protection themselves. Bärbel Heide Uhl has also pointed out that an effective anti-trafficking strategy is based on transparency and the assignment of clear responsibilities and competencies according to the different mandates of the actors.⁶⁹ Inter-institutional cooperation also involves issues of values, trust and expectations. Gabriele Reiter has warned that

[t]arget-oriented cooperation or even any exchange of information will only result in positive outcomes when the cooperating partners have confidence in and respect for each other. A clear delineation of responsibilities and tasks based on loyalty towards these principles and compliance with agreed-upon standards should build the framework for action. Standards may be Memoranda of Understanding or Directives for Cooperation.⁷⁰

68 Stability Pact for South Eastern Europe, National Programmes to Combat Trafficking in Human Beings (National Plans of Action) Background Paper, 2.

69 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 74.

70 Gabriele Reiter, 'Networking the Professionals. Advancing co-operation with other organizations and regulating cooperative relationships', in Ensuring Correct Identification and Adequate Assistance to Victims of Trafficking in Human Beings, ed. OSCE/ODIHR (Belgrade: 2005).

Operational issues for assistance

KOOFRA – Coordination Centre against Trafficking in Women (Germany)

Cooperation in ensuring the assistance and protection of trafficked persons can vary in Germany from one Bundesland to another. The extent and quality of assistance that victims of trafficking receive may differ considerably, depending on the region or the federal state in which the victim is. At the level of the federal states, it is up to the competent ministry to enact decrees for a more precise regulation of the prosecution of trafficking and of victim protection. The enacted decrees all recommend that limited rights of residence be granted to victims, whose residence has to be ensured in the interests of the official prosecution. In addition, many decrees contain directives for improving cooperation between the investigating authorities, the Foreign National's Offices and the victim protection institutions.⁷¹

Among the organisations that provide assistance to victims of trafficking, KOOFRA in Hamburg was the first one to set up a Memorandum of Understanding with the police, which allows for task sharing and the distribution of responsibilities between institutions. We shall see how KOOFRA has both integrated and modified the German model of inter-institutional cooperation. As Isabel Lorenz described in the conclusions to the OSCE Helsinki Conference, the German model includes a series of obligations on the part of both the police and the NGOs.

Obligations for the police

- When the first contact is made by the investigating authority with a potential witness, the latter must be informed of the possibility of receiving support by an independent counselling service. As soon as the investigating service suspects that this person may be the victim of traf-

71 van der Kleij, Provisions for Victims of Trafficking in Bonded Sexual Labour, i.e. Prostitution – in 6 European Countries – (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom).

ficking in human beings, it should establish contact with the counselling service and the special police unit responsible for protection measures.

- The police take care of the formalities with the appropriate authorities and make arrangements to guarantee that no information is divulged about the witness.
- The police take measures to protect the victim or witness before, during and after court inspections of the scene, interviews and court hearings.
- The police give advice on the protection of female counsellors.

Obligations of the counselling services

- In consultation with the police, the counselling service decides upon the future place of accommodation of the victim or witness. The counselling service then sees to the victim's placement in a suitable institution.
- The counselling service provides continuous psycho-sociological care to the victim or witness and arranges for medical care.
- Female counsellors may be present during the interview of the victim or witness if so desired by the latter.
- Female counsellors provide psychological support to the witness before, during and after court inspections of the scene, interviews and court hearings.
- The counselling service offers reintegration training and education to the witness.⁷²

KOOFRA has drafted an MoU with the Hamburg police as a written agreement to create a framework for cooperation of benefit to trafficked persons. An MoU would create obliga-

⁷² OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 111-112.

tions on the part of the police, thus making access to assistance more readily available. As the first contact with victims is often only possible through the police, it is important for the latter to identify victims who cannot identify themselves and to refer them to specialised counselling centres. Hamburg is the first federal state to allow cooperation in the form of a written agreement. In the early stages of conceptualising this framework for cooperation, KOOFRA had already negotiated an agreement of cooperation with the existing Criminal Investigation Office of the State of Hamburg. Since 1999 this agreement has formed the basis of its work.

The goal of such agreements is to set clear and binding regulations for both sides and to coordinate how the parties deal with victims of trafficking, as well as with each other. The different areas of responsibility and structure of work are carefully separated in the agreement, as KOOFRA believes that regulations must establish spheres of responsibility as well as the limits of work that can be carried out due to restrictions on capacity.

The agreement sets out a mission statement, followed by the objectives of each participating party. Women's projects and criminal investigation offices are institutions that work completely differently and have separate guidelines. The main goals of autonomous women's projects are to provide practical support to the victims, improve their legal situations and raise public awareness concerning the situation and background of trafficking. The main goal of the criminal investigation offices is public prosecution and combating crime. KOOFRA has considered it important to define and explain precisely how these different interests intersect in the common concern with trafficking. One of the main points reinforced through the agreement is that KOOFRA should provide neutral counselling, ensuring that the victim makes an informed decision about testifying.

The agreement of cooperation in Hamburg consists of the following parts: the actual agreement, guidelines, a list of indicators to identify the victims of trafficking, and a flyer about KOOFRA. The agreement regulates the contents of cooperation and determines

- the exact target group in cooperation
- the tasks of participating institutions
- areas of cooperation
- responsibilities, information flow, limitations to providing care.

The guidelines can be found in all police departments which have direct contact with the victims. These describe in a condensed manner the necessary steps to be taken. The list of indicators describes a series of 'signs' which can tell the police whether they are dealing with a potential victim of trafficking. If any of these signs is applicable, women are to be treated as potential victims of trafficking and to be informed about KOOFRA. The flyer is available in several languages and is distributed to women by the police. It contains an introduction to KOOFRA and describes the contents of the programmes on offer.

The Memorandum ensures that different categories of victims receive assistance tailored to their needs. The agreement makes different provisions for three categories of victims of trafficking: those who are witnesses, those who do not want to testify, and those who have not yet made up their minds. For the first category, it is the police who have the main responsibility. For these women, KOOFRA will focus on additional counselling in the native language and regular contact with a cultural mediator. For the other two categories, KOOFRA has the main responsibility, but it will also cooperate with the police where necessary.

Even if an MoU cannot directly change the institutional cultures and the goals of the respective institutions, it can set out detailed specifications of cooperation that can be helpful for women. Thus, KOOFRA has made a point of providing counselling in the victim's own language, ensuring that victims receive appropriate accommodation (e.g. not in shelters designed for other purposes, for refugees or mixed shelters). Such detailed specification allows for contact with victims to be established at an earlier stage and for assistance to start more rapidly.

While working within the limits of the legal and institutional framework of trafficking, a written agreement can modify the details of implementation. It also makes sure that those who are left out of the area of interest for criminal prosecution

receive assistance and are granted the rights that the legal provisions allow them. Through frequent contact and discussions with police officers, they have become more aware of issues regarding trafficked women.

The MoUs have not met with unanimous acceptance in Germany. A questionnaire taken at a general meeting of women's organisations showed that most of them – especially those who have been working in anti-trafficking for quite some time – either do not regard a written agreement as a necessity, or are concerned about their independence. Even if all sides agree on the advantages of cooperation, there is always an unequal distribution of power in favour of the police and the other authorities involved. This inequality is worrying for many women's projects, especially if a conflict of interest arises. A written agreement sets long-term measures for cooperation, and its functioning can be beset by pressures of a financial nature. While KOOFRA is financed largely by the Free Hanseatic State of Hamburg, the financing of law enforcement and civil society organisations is usually done differently. Assistance and protection organisations have to compete for funds and different short-term projects, without having a prospect of continuous and reliable funding.

What a written agreement makes clear is that cooperation can only succeed if it is goal-based and takes into account the different interests of the parties involved. An MoU also shows that, although they are partners in anti-trafficking, law enforcement and civil society have different standings. Financial issues are of the utmost importance in ensuring ongoing cooperation and the possibility that each of the partners can fulfil its responsibilities. An agreement of cooperation can also make changes in the situations of victims of trafficking both through the interaction of the two institutional cultures and through detailed rules for implementation.

Highlights

- KOOFRA has drafted a Memorandum of Understanding with the Hamburg police with regard to providing assistance to trafficked persons
- Inter-institutional cooperation implies the mutual acknowledgement of different goals
- The process of cooperation and continual interaction can provide the basis for good practices (together with legislation that makes cooperation with civil society a mandatory requirement for law enforcement)
- The MoU emphasises task-sharing, a clear distribution of responsibilities and trust-building; it makes provisions for ensuring the security of counsellors

Alternative sociale (Romania)⁷³

Alternative sociale is a Romanian NGO that was initiated by students at the University of Iasi in 1997 to offer psycho-social and legal assistance for community members at risk, especially delinquent children. More recently, the association has developed several projects in response to trafficking in women and children. The projects of Alternative sociale show how institutional cooperation can lead to the creation of new mechanisms for protection. One of its most innovative programmes has been the creation of a juvenile court in Iasi and subsequently in three other towns. Intended more for child victims of crime and child offenders, the juvenile court has also been created for victims of trafficking and of sexual abuse. The juvenile court was supposed to ensure an appropriate environment for legal proceedings which involve children in order to reduce the effects that such proceedings may have upon them. The project involved various institutions, such as the police, the city's courts and the social reintegration department affiliated with the Iasi court. Police officers, prosecutors, judges and social workers received training in child psychology, techniques for listening to abused children, and therapy for sex offenders.

⁷³ Presentation based on information provided by Sebastian Ghica and the association's websites: <http://alternativesociale.iasi.rdsnet.ro/about.php> and <http://www.antitrafic.ro>.

The project had three main objectives:

- Creating an appropriate environment for audiences and interviews with children victims of crime in all institutions involved in a trial: the police, the public prosecutor's office, and the tribunal.
- Training and capacity-building for specialised teams made up of policemen, prosecutors, judges, counselors, social workers and psychologists.
- Reducing the consequences of delinquency and victimisation for children and their families, as well as developing projects for rehabilitation and reintegration.

The project has involved the refurbishment of the main room in the Tribunal of Iasi, including video and TV equipment to record statements made by children in order to avoid having to expose them to repeat statements and interrogation. Similar equipment has been used by the Prosecutor's Office and the Iasi Police. The programme has initially included the training of 33 professionals for Iasi, including policemen, judges, prosecutors, lawyers, social workers and psychologists. Training has included two seminars, 'Working with children: victims and criminals' and 'The psychology of child development'. Subsequently more professionals have been trained. The children and their families are informed about the psycho-social and integration services available for children. In 2005 Alternative sociale published a Guide to Institutional Practices in Juvenile Trials, which discusses the international and domestic legislation, as well as the issues involved with child criminals and child victims of crime, their respective needs and rights.⁷⁴

As a result of the Alternative sociale project, the Romanian government has taken up the idea of juvenile justice and has agreed to adopt legal provisions concerning juvenile courts

⁷⁴ Alternative sociale, Ghid de practici institutionale in instrumentarea cazurilor cu minori (Iasi, 2005).

which will allow for their extension to other areas of Romania. In the guidelines for institutional practices in juvenile cases, Alternative sociale has pointed out that, in the case of child victims of crime, it is important to have a safe environment in court to ensure relative emotional stability for the child. Social workers and psychologists should be present during audiences. Children should not be repeatedly interrogated: instead the child's testimony should be recorded to avoid renewed traumatisation.⁷⁵ In the case of children, trials are not public. A new law passed in 2004 created special provisions for victims of crime:

- Informing victims about their rights
- Psychological counselling
- Legal assistance
- Financial compensation.

All these provisions also apply to child victims of trafficking, in conjunction with the special provisions of the 2001 law on trafficking.

The Alternative sociale project for setting up the first juvenile courts in Romania is a model of cooperation that is both goal-oriented and based upon a change in institutional cultures. As the contributors to the 'Guide to Institutional Practices' have indicated, the change in practices was required by the change in international legislation and the realisation that the rights of the children were infringed through the legal mechanisms that were in place. Cooperation was therefore based both on common goals and shared values.

Yet the problem that has been pointed out in the discussion of KOOFRA's MoU, namely the difference in standing and financing between the partners, reappears even more acutely in the Romanian context. Alternative sociale is funded through international programmes (e.g. Phare ACCESS of the European Delegation Commission in Romania for the Juvenile Court Project) or by different organisations as partners in var-

⁷⁵ Alternative sociale, Ghid de practici institutionale in instrumentarea cazurilor cu minori, 59.

ious projects. The continuation of projects is therefore subject to the donors' interest. Although the legal framework and responsibilities for cooperation have been set in place in Romania, cooperation is limited by the lack of funding possibilities. Sebastian Ghica has pointed out that, despite the existence of a Local Group for Action against Human Trafficking in Iasi, there is no operational system of victim referral and assistance, as the legislation does not specify any budgetary allocation for local institutions.⁷⁶ The Alternative sociale shelter has been co-financed by IOM and Secours catholique.

The financial issue raises the question of sustainability. Practices need to be both coherent over a period of time and efficient to ensure that they are reproduced and stabilised. While the project of Juvenile Courts has been taken up by the government and is likely to be replicated in other towns and administrative districts of Romania, projects of assistance and counselling have most often remained the onus of NGOs. Even when the health services or centres for vocational qualification are involved, the financial burden for assistance rests with the NGOs. Despite government legislation that makes the Ministry of Labour responsible for assistance practices, the legislation has not been implemented.

Highlights

- Alternative sociale has set up a project for juvenile courts (for child victims of crime and child criminals) in three towns in the county of Iasi, Romania
- Create an appropriate environment for children who have been abused and children victims of trafficking
- Project that targets wider categories than victims of trafficking, but that tries to protect the most vulnerable
- Model of practice that has provided inspiration to the government

⁷⁶ Sebastian Ghica, e-mail communication, 25 August 2005.

Social inclusion: focus on work

Social inclusion through work takes on different meanings and presents different challenges in countries of destination and countries of origin. It has been pointed out – especially for countries of destination – that employment or the right to work is an important aspect of effective victim protection, in the sense that this ensures that they do not return empty-handed after a lengthy trial but actually save some money in that period.⁷⁷ If trafficked persons are granted residence permits for either shorter or longer time periods, this period should not be wasted but targeted towards their social inclusion.

Work is essential in ensuring the financial independence and emotional stability of an individual. Most victims of trafficking have left their countries to find work, and the prospect of work can be a stabilising factor after the experience of trafficking. In countries of origin, the issue of social inclusion through work has been raised mostly as an issue of preventing trafficking. As one of the root causes of trafficking is poverty and a lack of employment opportunities, anti-trafficking is thought to start by providing real alternatives for labour market integration. If dignified work is one of the most important means of social inclusion, the challenges of assistance practices are also defined by the existing labour markets in countries of both origin and exploitation. This section will look at two models of inclusion through work and the questions they raise, one in Italy and the other in Romania.

On the Road (Italy)

The so-called Italian model of victim assistance and protection has been made possible by Article 18 of the Aliens Law. Article 18 provides renewable six-month residence permits

⁷⁷ van der Kleij, Provisions for Victims of Trafficking in Bonded Sexual Labour, i.e. Prostitution – in 6 European Countries – (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom).

when a foreign citizen is in a situation of abuse or severe exploitation and their safety is endangered as a consequence of attempts to escape or of statements made during preliminary investigations or in the course of criminal proceedings. Access to the permit is not conditional on the provision of testimony. The provision of intelligence is sufficient to be considered for a permit.⁷⁸

At the time, Article 18 was – and still is – the most progressive measure in Europe in terms of granting the victims of trafficking the possibility of a 'social path' towards protection when the legal path' is considered inappropriate. The social path did not make residence conditional on the provision of testimony against the trafficker(s). The temporary residence permit includes access to health, education and the regular labour market. The 'social path' was necessary either because some victims do not have relevant information about the criminal organisation, or because the criminals have already been prosecuted, or 'simply' because, at the beginning, victims are too scared for their own or their relatives' safety to press charges. Nonetheless, these factors do not diminish their need to receive help and support.⁷⁹

Although the Italian model has been praised as a path-breaker, it has so far had no followers. Concerns over prosecution and law enforcement have continued to rank higher in most European countries, despite a shared understanding of the necessity to provide trafficked persons with clear perspectives for the future. According to Marco Bufo from On the Road,

⁷⁸ Paul Holmes and Krizstina Berta, 'Comparative Matrix on Legislation and Best Practices in Preventing and Combating Trafficking in Human Beings in EU Member States and Candidate Countries', in European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century, ed. IOM (Brussels: 2002).

⁷⁹ However, victims do have to give information about the trafficking and exploitation experience to the organisation responsible for the programme, thus contributing to the police investigation. Moreover, if required, victims have to testify in court. Orfano, 'Italy', 212.

a clear legal status perspective should be offered to the victims, allowing them to access a whole range of services (protection, shelter, health care, psychological support, education, vocational guidance and training etc.) aimed at their social inclusion and at access to the labour market in the country of destination, or at their voluntary and assisted return to the country of origin. This perspective, based on a residence permit which must be renewable and transferable for work or study purposes, is crucial: the permit should be granted regardless of the victims' willingness or capacity to press charges or to testify in court against the perpetrators.⁸⁰

On the Road works directly with sex workers and victims of trafficking for the purpose of sexual exploitation to lower risks and reduce the discomfort connected with prostitution; to increase prostitutes' possibilities for self-protection, emancipation from violence and exploitation; and to offer programmes of social inclusion and job insertion to foster self-determination and individual empowerment. The main principles of the Association concern the achievement of autonomy by trafficked persons, hence the empowerment of women. The Association assists women to create individualised plans towards social integration and personal autonomy.⁸¹

All women are offered an individualised project, co-developed by the project's team and the victim, based on the specific needs of the person being taken care of. Within each individual programme, women have access to board and lodging, medical care, psychological assistance, social assistance, legal assistance, education and training opportunities, Italian language classes, vocational guidance, vocational training (in particular through the Practical Training in Enterprise programme), employment opportunities and job-seeking assistance.⁸²

80 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 88.

81 Kvinnoforum Sweden, European Good Practice on Recovery, Return and Integration of Trafficked Persons (Stockholm, 2003), 37.

82 Orfano, 'Italy', 190.

It is important to emphasise that the Association supports women's training and employment with the aim of their 'professionalisation' and the achievement of full autonomy by enhancing their skills and know-how. Therefore On the Road has avoided economic sectors that are unstable or traditionally linked with marginalised categories, such as the 'market for domestic labour' directed at families and elderly people. In Italy as in other countries, this sector has too often created serious situations of irregular and exploitative conditions, where women are paid very little and are subject to forms of segregation due to the specific features of their work, often involving the acceptance of unfavourable terms (long shifts, lack of a contract, inadequate salary, etc.).⁸³

On the Road has formulated a model of specific interventions for employability – named 'Formazione Pratica in Impresa' (Practical Training in Enterprise) – which has proved to be quite effective. This involves an individualised training programme through which a person works as a trainee or intern in a company for a variable period depending on his or her skills (from two to six months, part-time or full-time). During this period, the trainee can experience a real working environment and participate in the work process. She is also supported by a psychologist and a tutor working for the Association and by a trainer working in the company. A specific agreement signed by the Association and the company regulates the training. On the one hand all costs are covered by the project run by the Association (social security and salary for the trainee), while on the other the company is committed to consider, at the end of the training period, the possibility of employing the trainee.

On the Road has argued that this practice has proved very successful, with a 90% employment rate.⁸⁴ Its success, however, depends on the careful identification of collaborating companies and on the negotiation of the terms of the part-

83 Orfano, 'Italy', 190

84 Bufo, Marginalia. Between the lines. outside the margins. Multi-dimensional readings and responses to social exclusion..

nership. Thanks to the skills acquired during the training period, the trainee can be employed either in the company where s(he) did the internship or in a different one. The Practical Training in Enterprise model has been subsequently adopted by other NGOs in Italy, and its success has led to it being recognised by the Ministry of Labour. Much of the responsibility in these projects lies with the Association, which needs to do the proactive work to locate 'compatible' companies which are willing to become part of the project. On the Road has created a database of about thirty companies willing to become involved in this programme.⁸⁵

The high percentage of recruitment obtained at the end of the Practical Training period is the main indicator of the success obtained by this model, whose methodology seems to respond to the needs of the various parties involved. The period of Practical Training in Enterprise offers an opportunity to mediate the relationship between a company and a foreign worker, to change and even eliminate stereotypes. Without this proactive approach to employment, which creates advantages for the company by providing a labour force for free – although only for a limited period – women would probably not have such an opportunity. On the Road strongly upholds the virtues of work as a tool for social inclusion, for 'promoting one's skills and identifying one's abilities, starting an individual and collective process of social and, later, economic autonomy. Thus, employment is seen as a tool and a driving force for the promotion of individual resources, and the target group is seen as a 'resource' and not only as a "social problem".⁸⁶

Finally, the Article 18 programme has also allowed the introduction of an important novelty, especially for under-age women: the 'scholarship'. Instead of young women being employed in the factory itself, they were given the opportunity to learn a job (hairdresser and beautician) in the medium

to long term through the award of a one-year scholarship and constant guidance by a tutor. On the Road argues that these training programmes allow girls to acquire the technical and experiential know-how necessary to be able to start up their own businesses. Such projects raise, of course, issues about financing a new business, especially in a new legal and market environment, often with rudimentary language skills.

The practices for formation in enterprise and vocational qualifications show the importance of stable work and clear prospects for earning money and improving one's financial situation or the situation of one's family. By achieving independence and financial self-sustainability, trafficked persons can start to reconstruct a future. What the Italian model has allowed to be done in countries of destination, NGOs in countries of origin have tried to replicate for the benefit of returned victims.

It is important to be aware of the fact that the model of social inclusion through work replicates some of the larger economic challenges for trafficked persons in specific countries, such as insecure and flexible jobs, low salaries and difficult demands of risk-taking. Given especially the traumatic experiences that trafficked persons have had with risk-taking, it should be considered how they can adapt to the risky environment of the labour market or take the risk of starting their own businesses.

Highlights

- Social inclusion through labour
- Through work, trafficking persons can regain autonomy (including financial independence) and become members of a community
- On the Road has devised partnerships with different enterprises for individualised training programmes for victims of trafficking, which can lead to employment

85 Associazione On the Road, *Includendo: dall trafficking all' inclusione*. Relazione semestrale, 17 maggio 2004 – 16 novembre 2004.

86 Orfano, 'Italy', 191.

Reaching Out (Romania)⁸⁷

The NGO Reaching Out was founded in 1999 to provide direct assistance in rehabilitation and re/integration to women and child victims of trafficking and sexual exploitation, as well as young women leaving the orphanage system. Today it is one of the six shelters for victims of trafficking in Romania, and the only one to provide long-term assistance for social inclusion, emotional recovery and integration into the labour market. Local NGOs manage five of the shelters, and one is managed in a partnership between the IOM, the Ministry of Interior and the Romanian Orthodox Church.

Barbara Limanowska describes the Reaching Out Shelter for victims of trafficking as the only independent shelter run by an NGO. Trafficked persons who receive assistance from Reaching Out can stay in the shelter until they are in a position to acquire autonomy and social inclusion. Thus women can be accommodated in the shelter for up to two years. Women from Moldova, who can also stay in the shelter, receive assistance for a longer period if they find a job in Romania.⁸⁸

To be able to offer long-term help, Reaching Out has the capacity to host a maximum of twelve women in the shelter at any one time. Over a period of five years, Reaching Out has assisted 127 women aged between 13 and 42. The organisation provides assistance tailored to the women's individual needs, their current stage of development and the specific environment from which they come. Reaching Out provides medical and psychological assistance, legal counselling, life skills, job training and job assistance, accommodation assistance upon

87 Presentation based on programme information provided by Reaching Out Romania, as well as on the Kvinnoforum and Barbara Limanowska's Reports. Kvinnoforum Sweden, European Good Practice on Recovery, Return and Integration of Trafficked Persons, Limanowska, Trafficking in Human Beings in South Eastern Europe. 2004 – Focus on Prevention Additional details have been gathered from the newsletter of the Lift Foundation, <http://www.liftfoundation.org>.

88 Limanowska, Trafficking in Human Beings in South Eastern Europe. 2004 - Focus on Prevention.

exit, and appropriate staff supervision and assistance. As victims of trafficking can suffer emotional consequences from abuse and trauma, the emphasis is placed on post-traumatic individual and group therapy sessions. In addition to providing psychological support, Reaching Out is trying to equip women who are part of the programme with basic life skills. The NGO methodology is inspired by the belief that returned victims of trafficking need to be taught responsibility and long-term planning, as well as be helped to regain a belief in their own capacity to deal with problems. These are the elements of a process of achieving full autonomy and inclusion in society.⁸⁹

Reaching Out is aware of the importance of continuing education or of finding work for returned victims of trafficking. Continuing education, along with counselling, helps victims improve their self-esteem and regain self-confidence. Women can either be enrolled in school at a level commensurate with their ability, signed up for a vocational qualification in accordance to their interests and skills, or be employed during the programme. Reaching Out covers the costs of vocational training and provides counselling for job hunting. The organisation has also set up a tailoring workshop, where girls can start working and learn how to run their own businesses.

Women are assisted in finding appropriate and affordable accommodation before exiting the programme. Before leaving, they have to provide the project coordinator with a three-month budget based on their income. They are encouraged to keep in touch with the programme, and if problems occur a social worker will visit them twice a week and help them re-budget. In the majority of cases women stay in touch with the shelter, so that the shelter staff are able to follow their whereabouts and support them when necessary.

89 Questions about the autonomy of the individual and responsibility are hotly debated, especially in relation to trafficked persons. After all, victims of trafficking often show courage and a degree of autonomy that leads them to look for better employment and perspectives for the future. If these perspectives collapse, however, it is important to recognise that trafficked persons may need to regain self-confidence and trust in their potential to create a better future.

Although initiatives for vocational training and labour integration have become part of most NGO strategies in Romania, there are questions that need to be addressed concerning the sustainability of short-term vocational training, especially when it comes to skills like sewing or hairdressing. Neither of these is likely to lead to self-employment. Moreover, the textile industry is 'famous' for the exploitative conditions of its workers. Where Reaching Out is most challenging is in its attempt to set up a small business by itself and integrate women as stakeholders in this enterprise. While not devoid of risks – Reaching Out has to develop appropriate marketing strategies to find a market for the bed linen produced in its workshop – this business enterprise provides new opportunities for women.

Although the purpose of setting up such business initiatives is to provide women with a learning environment so that they can develop similar projects later on, there are several major differences and caveats that need to be considered. While it is easier for an organisation to find a market niche and use its connections to develop a network for sales, it is more risky for women to embark upon similar business projects on their own.

Another problem concerns the ability to finance a business. In Ukraine, for example, Winrock International – in cooperation with the Women's Consortium of Ukraine with funding provided by USAID – have established regional centres for the support of women-run businesses and credit unions. The centres offer three-month business courses for women, consultations on the development of small and medium-sized businesses, and finance and technical assistance to credit unions (which serve as partners of the business centres). However, micro-credits are more risky in unstable economies. As research in development studies has shown, although women are often responsible for the credits, they do not always have control over the money, especially in traditional families.

Another caveat that affects NGO initiatives in setting up businesses concerns sustainability. Like Alternative Sociale, Reaching Out is dependent upon external funding. Although the organisation has been successful in securing funding,

social inclusion cannot be left to the good will of donors. State involvement is necessary for social inclusion, especially in the conditions of economic insecurity that the countries of origin have been experiencing during economic transition.

Social inclusion through work requires on the one hand sustainability – the possibility of continuity without financial gaps – and on the other hand welfare measures. Unemployment is a reality across Europe, and countries of origin need better measures for those who have lost their jobs. We have seen how important clear prospects are for ensuring emotional stability. Finding a job is not enough, especially when that job exists in an environment dominated by the threat of unemployment. Most NGOs have favoured vocational training for the service sector. In Romania, for example, jobs like beautician or hairdresser can be very precarious unless pursued in the larger towns. Similarly, factory work is highly unstable.

Reaching Out has recently started a new project for agro-tourism to allow some of the victims of trafficking to work in a hostel. However innovative such projects may be, concerns must be raised about the fact that NGOs providing assistance simultaneously need to become business entrepreneurs. The risk of becoming entrepreneurs can either be left to the trafficked persons themselves, – for example, through programmes of micro-credit or business classes that can teach them how to run a business – or it can be taken up by an organisation.

Given all these factors, which require long-term governmental measures and economic growth and stability, one should also consider possibilities of legal work abroad for trafficked persons who would like to find employment elsewhere. Although this area has been little explored so far by NGOs, given their belief that all trafficked persons want to return home, it is not far-fetched to claim that some of them might want to find legal employment and work abroad for a time.

Highlights

- Long-term integration programmes and assistance for victims of trafficking
- Reaching Out has set up a tailoring workshop to achieve self-sustainability and provide an educational environment for its clients
- In the context of transition countries, Reaching Out has tried to find other modalities of financing its projects, including a project in agro-tourism

Raising questions, thinking further

The practices discussed in this chapter raise many issues about coherence. Practices involving institutional cooperation need to be perpetuated and stabilised over time. While specific projects and practices can be effective and yield results at a certain moment in time, a holistic approach needs a temporal horizon within which practices can be reiterated. In the case of practices of social inclusion, the same issue of temporal coherence has proved most acute for countries of origin. KOOFRA has been a singular case inasmuch as it receives almost all its funding from the Free Hanseatic State of Hamburg. On the Road also receives some funding from regional and national sources as well as European institutions.

Civil society organisations in countries of origin are largely dependent upon international donors and short-term funding for specific projects. The modalities of financing can have an impact upon forms of cooperation, depending on whether a project can continue and for how long. Financing can lead to changes in practices and incoherence regarding social inclusion too. The reasons for short-term rather than long-term vocational training and labour market integration have often been of a financial nature rather than an argued strategy of victim assistance.

Cooperation also involves coherence in the form of institutional trust. Practices can be coherent only if institutions do what they are supposed to do according to the agreement. KOOFRA has insisted on the necessity for trust between the police and proj-

ect. Mutual trust can only be built up through continuous interaction. Yet there has to be a framework that makes possible and guides forms of interaction. Cooperation agreements are more likely to succeed if there are legal provisions in place that impose particular obligations on different institutions. In Italy, for example, there is no obligation on the police to inform illegal migrants about the existence of Article 18 or about NGOs.

Moreover, the 'Italian model' has sometimes shown incoherence between legal provisions and institutional actions. Although the legal and social paths are clearly differentiated in Article 18, it has often been pointed out that the social path in Italy is closely entwined with the legal one. In practice there is a tendency to grant permits only to those who are willing to testify.⁹⁰ Pearson has also noted contradictions between migration laws more generally and legal provisions affecting trafficked women. There are problems in identifying foreigners without identity documents or with forged ones. Without passports, suspected victims of trafficking cannot obtain a work permit.⁹¹ Practices exist in a larger field, where they intersect with other practices that may be contradictory. One of the challenges for anti-trafficking practices is that they can be undermined by other existing institutional procedures.

In terms of efficiency, there are numerous constraints upon the organisations discussed here. All those involved in assistance and protection are civil society organisations. Yet protection services cannot be left exclusively to the good will of civil society in developing projects of assistance for victims of trafficking. States should be responsible for funding the creation of appropriate structures and services to respond to human trafficking.⁹² In Romania, even though the Ministry of Labour is responsible for victim assistance and integration, the NGOs active in this area rely upon external funding.

90 Pearson, Human traffic, human rights. Redefining victim protection, 144.

91 Pearson, Human traffic, human rights. Redefining victim protection, 146.

92 Liliana Sorrentino, 'Making Victim Assistance and Protection More Effective', in *Taking a Stand: Effective Assistance and Protection for Victims of Trafficking* (Vienna: OSCE, 2005)

Efficiency is also constrained by the larger economic context within which inclusion practices function.

It is a real challenge for NGOs in countries of origin to help victims achieve stable employment and financial self-sustainability. Reaching Out has taken the risk of becoming a business entrepreneur in agro-tourism and textiles, for example. The line between the economic sector and civil society organisations becomes blurred, with NGOs having to behave more and more like economic actors in order to provide some prospect of work for their clients. Marco Bufo has described similar problems for countries of destination, where stable regular work can be problematic:

If the aim is social inclusion, education and vocational guidance and training are of course of great relevance. In Italy we also have to face the general problems of a much more free and unstable labour market, which makes it more difficult to obtain regular employment. Short-term contracts are very common in Italy, while we have an immigration law which says that the residence permit can be renewed only on the basis of full-time employment. This of course also affects victims of trafficking. It is just one example of the need to consider the trafficking phenomenon and specific provisions in the framework of the global scenarios and policies in our societies.⁹³

When one speaks of a holistic approach to trafficking, it is therefore more than just about institutional cooperation and creating institutional synergies. Good practices in response to trafficking depend on good practices in relation to migration and the problems of the labour market. How states respond to these problems is bound to affect responses to the problems of trafficking. Being subjectively affected, trafficked persons are never simply 'victims of trafficking'. Good practices need to address these issues in the context of migration (especially in countries of destination) and work.

As the conclusion will discuss more in detail, the situation of trafficked persons appears as an 'extreme' instance of the situation and violations of rights to which other categories of people are also subjected. Trafficked persons are not an exception, but an extreme that brings to light how other, more 'normalised' violations of rights can become exacerbated. One challenge is to think how practices in response to trafficking can link up with other practices that respond to the needs of larger groups. Trafficked persons are part of larger categories of excluded and marginalised people who may fall victim to exploitative practices and who need protection through both legal instruments and other inclusion strategies.

This chapter has already shown how On the Road has designed projects for trafficked persons within larger projects for the excluded and the marginalised, for prostitutes or other social categories. Alternative Sociale has set up projects that speak to the needs of child victims of crime for specific legal arrangements. A legal setting that protects the rights of children and does not subject them to the requirements of a justice system that has been designed for adults can also accommodate the needs of child victims of trafficking.

93 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report', 90.

Making trafficking visible:
law enforcement training

Current Context

One of the key elements in shedding the invisibility of trafficking and making sure that trafficked persons become visible as 'victims of trafficking' and not as illegal migrants has been training of law enforcement officers. As the EEG Report emphasises, training is a key element for any strategy or action plan against human trafficking.

Training measures should aim both at enhancing the understanding of human trafficking as a crime and human rights violation as well as providing the actors with the tools and skills to adequately respond to it. Therefore, all training should contain a general part, designed as awareness raising and comprising a comprehensive description of the phenomenon, definitions, *modus operandi*, etc., as well as a specific part, tailor-made for the actors targeted by the training and giving detailed instructions on the interventions and measures to be taken by these actors.⁹⁴

In fact, as both ICMPD and La Strada have emphasised in their objectives, the aim in training law enforcement officials is to identify victims of trafficking accurately. While training is often seen as part of the prevention of human trafficking, it is also instrumental in strengthening the human rights approach towards trafficked persons. A human rights approach can become effective only if victims of trafficking are made visible and the phenomenon is clearly understood as a problem that stems from human rights violations. In 2002, as a corollary to the UN Trafficking Protocol, the United Nations Office of the High Commissioner for Human Rights published the 'Recommended Principles and Guidelines on Human Rights and Human Trafficking':

Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involve-

ment in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

Similarly, the Council of Europe Convention on Action against Trafficking in Human Beings points out the 'exceptional' measures concerning victims of trafficking. 'Exceptional' should be understood here as an exception from the norm, an exception from the routine procedures of law enforcement officers and the 'culture' of policing:⁹⁵

Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraph 1 and 2.⁹⁶

Training is the premise upon which institutional cooperation can rest. Institutional cooperation is instrumental for a comprehensive approach to combating human trafficking and is shaping the latest practices concerning prevention, victim assistance and return. Thus, training is part of victim identification and referral in the ICMPD Regional Best Practice Guidelines and is intended to target law enforcement officers, labour inspectors and other labour-related agencies, health and social workers, children's institutions, judges and prosecutors in order to enable them to identify and refer trafficked persons properly. Training is therefore an a priori

⁹⁴ Experts Group on Trafficking in Human Beings, Report of the Experts Group on Trafficking in Human Beings, 92.

⁹⁵ For the distinction between trafficked persons as an 'exception' to other categories and as an 'extreme' instance of rights violations, see the previous section, 'Raising questions, thinking further', and the Conclusion.

⁹⁶ Council of Europe, Convention on Action Against Trafficking in Human Beings.

requirement for an institutionally concerted and holistic approach to human trafficking. For this very reason, the EEG Report advises joint training, targeting several actors:

Although at present rarely employed, such multi-actor training is indispensable in order to ensure a co-ordinated and multi-disciplinary approach. Joint trainings for all parties involved in addressing trafficking and assisting victims (police, prosecutors, victim assistance agencies, etc.) will result in an improved understanding of each other's roles and enhanced cooperation.⁹⁷

At the same time, the training of law enforcement officers relies on both the practical and theoretical expertise accumulated in the field of human trafficking. Training is the point where change can be directly, durably, and sustainably effected. On the one hand, training covers the legal and theoretical tools that allow human trafficking to be defined and conceptualised as the abuse and violation of rights, thus changing attitudes and understandings. On the other hand, training provides practical tools to increase skills and guide the behaviour of practitioners. Training complements interaction and other forms of agreement with the aim of achieving institutional change rather than simply recognising institutional cultures. By presenting different facets of the phenomenon of trafficking, training can lead to practices that go beyond the routines and existing tools of law enforcement.

One of the first objectives of training is to create 'shared understandings' of what trafficking is. Thus, the OSCE has been quite straightforward in its recommendation to improve the understanding by authorities of the nature of exploitation in trafficking in order to eliminate prejudice.⁹⁸ Training needs to establish a set of rules that law enforcement officers should follow in their everyday practices. It needs to tackle

⁹⁷ Experts Group on Trafficking in Human Beings, Report of the Experts Group on Trafficking in Human Beings, 93.

⁹⁸ OSCE/ODIHR, Recommendations of the Conference 'Ensuring Human Rights Protection in the Countries of Destination'. Breaking the Cycle of Trafficking.

the problem of the possibly divergent goals of law enforcement officers and other organisations, as well as specific views and values. It is important to think of values as field-specific rather than as universal moral values.

While there is hardly any reason to suspect that there is a lack of agreement over the 'human rights approach', practical details can vary precisely because of the divergences that exist over values. The values that guide the behaviour of law enforcement officers are the prosecution of crime and the eradication of illegal migration. A human rights approach needs to tackle the potential to upset these field-specific values. Whose human rights will be upheld in these different configurations will therefore vary. Victims who testify will be valued more than those who do not in a criminalising approach. Once training emphasises other facets of trafficking, i.e. issues of labour exploitation and global poverty, it takes victims of trafficking out of a specific field and opens up the potential for seeing them as equal individuals whose rights need to be protected.

Theoretical and practical issues for law enforcement training

International Centre for Migration Policy Development (Austria)⁹⁹

ICMPD, an international organisation with its headquarters in Vienna, has placed its research at the intersection of the theoretical and practical tools needed for training. Law enforcement officers have a pivotal role in countering human trafficking, ranging from prevention and the early detection of cases of trafficking to adequate protection and support for trafficked victims, as well as carrying out effective anti-trafficking investigations in line with human rights principles. Thus ICMPD has developed several projects on the training of police, border guards, customs officials, judges and prosecutors, with the aim

⁹⁹ Presentation based on documents provided by ICMPD, as well as materials retrieved from <http://www.antitrafficking.net> and <http://www.icmpd.org>.

of fostering the institutionalisation of anti-trafficking training in an increasing number of countries in Europe.

According to ICMPD, training is needed at two levels: at the specialist level, targeting specialised police units and investigators who have a specific responsibility for dealing with the crime; and at the generalist level, directed to all non-specialist police officers and other categories of professional who might come into contact with victims of trafficking. In 2002, a 'Comprehensive Programme on Training and Capacity Building to Address Trafficking in Human Beings in South Eastern Europe' was initiated as a means of awareness-raising and capacity-building. Comprehensive and sustainable structures for training, the exchange of best practice and both national and regional cooperation activities were fostered in support of thirteen South European countries or territories. Through this initial project, ICMPD opened up a path of sustainable training structures and cooperation among institutional actors, leading to standards to be implemented regionally.

The ICMPD 'Regional Standard for Anti-Trafficking Police Training'¹⁰⁰ initially focused on training at the generalist level, including ordinary police, border police (and customs officers, in so far as they have border police functions), and was aimed at raising awareness of trafficking as a serious crime and a human rights violation, consequently enhancing the ability of the police to identify and properly treat the victims (and/or potential victims) of this crime, as well as to carry out low-level intelligence-gathering in support of the specialist investigators. The purpose of the first ICMPD training manual was to offer the necessary knowledge for the initial identification and protection of victims of trafficking, low-level intelligence-gathering and the enhancement of cooperation with NGOs.

Due to lack of awareness about the different facets of human trafficking, victims are still often treated as illegal immigrants, criminalised and re-victimised, and immediately

deported without being offered appropriate assistance or protection, while the real perpetrators remain at large. Inadequate treatment also discourages the cooperation of victims in criminal proceedings, resulting in a disappointingly low number of convictions of traffickers.

Thus, the ICMPD 'Regional Standards' lists a series of objectives to be achieved through training in the region. These objectives can be taken as the goals to be shared in any programme of training in relation to trafficking in persons:

- to raise the awareness of the phenomenon of human trafficking as a crime among non-specialist law enforcement officers
- to enable them to recognise trafficking when they encounter it during their daily activities
- to enable them to deal professionally and adequately with any allegation of trafficking crime and any victims of it during the initial phases of the law enforcement response
- to enable them to recognise, collect and disseminate criminal intelligence on the crime of human trafficking

The material also seeks to enhance the cooperation of police with NGOs, notably through NGO input in the delivery of training. NGO involvement is instrumental, as NGOs have direct contact with the victims of trafficking and it is they who can strengthen the rationality and practices of a human rights-based approach. Thus the ICMPD training manual for the police lays down principles upon which cooperation between civil society and the police needs to be based and which will therefore guide law enforcement practices in this area:

- One of the critical functions of the IO-NGO sector is to assist victims of trafficking in human beings, irrespective of whether they are willing to testify in proceedings.
- The safety and welfare of the witnesses, who often suffer from severe trauma, must be regarded as paramount by all concerned.
- In the context of trafficking in human beings, it is to be recognised that witnesses will always be at risk.

¹⁰⁰ The document will also be referred to as the 'ICMPD police training manual'.

- The decision to testify, given what the victims have gone through and the risks they and potentially their family will be exposed to during any trial, must be respected as a courageous one.
- If victims of trafficking agree to cooperate as they attempt to recover their personal lives, they can make an essential contribution to the conviction of traffickers. With their help, the offence of trafficking in human beings can be prosecuted more effectively.
- The psychological stability and resilience of witnesses can be improved through the provision of specialist assistance services.
- To avoid the danger of the victim concerned being re-trafficked, optimal cooperative preparations between countries of destination and countries of origin (or other third countries) must be made to ensure for his or her safety and assistance during and after any repatriation and re-integration.¹⁰¹

The challenge for the law enforcement response is to create trust and the conditions in which the victims and the IO-NGO sector can feel able to cooperate with the criminal justice system. The means of fulfilling these requirements involves giving victims and those who advise them the lead role in deciding whether they will cooperate or not, as well as giving them time to reflect on and consider their position before they make such a crucial decision. Cooperation between the police and the IO-NGO sector should not be restricted to single cases but rather should take place on a daily basis, preferably on the basis of standard operating procedures by way of a Memorandum of Understanding (MOU) drawn up between the police and the support organisations in each country. The protocol should start by setting out a basic understanding between the two parties along the following lines:

- that trafficking offenders will be efficiently prosecuted and that victims have a key role to play in this process by testifying
- that all parties must acknowledge the trauma caused by the crime and the penal proceedings
- that the victims must be treated with dignity
- that a victim cooperating in a trafficking case is always at risk
- that the better the care and counselling of the victim, the better their evidence will be
- where there is any evidence of a concrete risk to a victim of foreign origin in testifying if she returns home, she must be granted exceptional leave to remain
- that all measures taken under witness protection programmes must be carried out by mutual consent.¹⁰²

Cooperation between civil society and law enforcement can only be successful if it involves the recognition of shared objectives and an understanding and acceptance of the differing goals of the two sides. According to ICMPD, it is vital that police officers understand this factor and build relationships based on trust. The ICMPD manual thus keeps separate the rationalities that guide practices of law enforcement and NGOs respectively and makes the point that the protection of human rights cannot be compromised, as it is a better way of achieving the goals of law enforcement.

While this rationalisation is very important in ensuring efficient cooperation and in rallying law enforcement authorities to the cause of combating trafficking, it is important to be aware that these two rationalities can often contradict one another. Thus, it may still be the case that the prosecution of crime has the upper hand or that a rationality of 'repatriation and return' is high on the agenda. In practical terms, the ICMPD training approach uses modern methods by means of which not only can attitudes towards trafficking be changed, but also a different type of information be provided and understanding for the victims of trafficking created. Thus training curricula use techniques such as case studies, role-playing and simulations.

¹⁰¹ ICMPD, Regional Standard for Anti-Trafficking Police Training in SEE (Vienna, Austria: International Centre for Migration Policy Development, 2002), 51-52.

¹⁰² ICMPD, Regional Standard for Anti-Trafficking Police Training in SEE, 53.

To ensure a sustained and adequate law enforcement response, ICMPD has built upon its own experience gained in South Eastern Europe, as well as on the experience of UNDP Romania, which had provided training materials for specialised investigators in the same region.¹⁰³ Currently, ICMPD and UNDP are developing a common project which seeks to strengthen the national training systems and police capacities to counter human trafficking effectively by updating existing manuals, supporting national teams in conducting national training programmes in line with modern training delivery techniques and developing sustainable National Anti-Trafficking Training Strategies/Plans according to national circumstances and needs.¹⁰⁴

The new programme will integrate an expanded definition of human trafficking that goes beyond sexual exploitation to include other forms (e.g. trafficking in organs) and sectors (e.g. forced domestic labour) where exploitation may take place. The programme also puts forward a consistent scheme for continuous education in the area of anti-trafficking for law enforcement, with defined training objectives for different levels and a flexible structure that also allows the integration of other, more specialised training programmes, such as combating the forced labour outcomes of human trafficking and training in the special protection and referral procedures for child victims of trafficking.

ICMPD has also drafted a series of guidelines for a comprehensive, human rights-based, multidisciplinary and victim-sensitive national anti-trafficking response (national strategies and action plans) in South Eastern Europe. The guidelines were produced within the framework of ICMPD's 'Programme for the Development of Anti-Trafficking Training for Police Programme for the Enhancement of Anti-trafficking Responses in South

103 The two materials, 'Regional Standard for Anti-Trafficking Police Training in SEE' published by ICMPD, and the 'Best Practice - Law Enforcement Manual for Fighting Against Trafficking in Human Beings', published by ICMPD, are available from <http://www.antitrafficking.net>.

104 ICMPD/UNDP, Strengthening Law Enforcement Capacities for Fighting Human Trafficking in South Eastern Europe (2005).

Eastern Europe'. The national strategies and referral mechanisms should be informed by a series of guiding principles:¹⁰⁵

Government ownership

The term 'government ownership' is used to describe the relationship the government should have to the anti-trafficking measures applied in its country, namely that it should 'own' them. The government assumes full participation, responsibility and accountability in defining the objectives, implementing the activities and meeting the outcomes of the anti-trafficking response. This includes the involvement of non-state actors, and especially civil society and NGOs, in the design and implementation of this response.

Civil-society participation

The principle of 'civil-society participation' requires not only that both the development and the implementation of programmes and measures against trafficking are carried out by government authorities, but also that they also involve stakeholders who are independent of the state and outside the government and public administration.

The involvement of civil-society representatives is important, because their concrete experiences qualify them to represent the victims' perspectives and complement the support provided by the state. Their inclusion in a national strategy helps to balance law enforcement requirements with a victim-centred, human rights-based approach, as civil-society participation not only ensures adequate assistance to the victims, but also, as the victims' willingness to cooperate improves with better attention to their needs, renders prosecutions more effective.

The human rights-based approach

The term 'human rights-based approach' means that the national anti-trafficking response (as well as every single measure) should be normatively based on international human rights

105 See the presentation of the Agency for the Coordination of Victim Protection Serbia for an example of how these principles can be implemented.

standards and operationally directed towards promoting and protecting human rights, especially those of the victims.

In essence, a human rights-based approach asserts that the human rights of victims are at the core of the anti-trafficking response and that they take precedence over other considerations.

Sustainability

In terms of an anti-trafficking response, sustainability means that the structure and system to be implemented is able to endure over the long term and to adapt creatively to changing conditions over time. There should be no critical dependencies (such as on major external donor funding), which can make the system collapse easily.

All these guiding principles for anti-trafficking strategies can be thought of in terms of the criteria for good practices. The manual has already indicated that state involvement and accountability are essential in tackling the phenomenon of trafficking. It has also nuanced the question of civil-society participation by raising concerns about its standing, especially in cooperation agreements, given its more insecure financial status. While civil-society organisations can play an important role in training, capitalising upon the knowledge they have of the phenomenon, civil society cannot bear the responsibility of finding solutions to the problem of trafficking.

As far as the human rights approach is concerned, one should acknowledge that human rights exist in different forms in different fields. In the criminalizing approach, victims of trafficking have rights if they testify. Victims of crime also benefit from special rights as long as the crime is recognised and the victim is willing to start legal procedures. NGOs have often raised concerns about those who are left out of these systems; their rights are violated (in this case by states) because they lack entitlements to any. As understandings of trafficking have developed and victims of trafficking have been to obtain entitlements to rights, NGOs have had to make law enforcement aware of the existence of these entitlements. For example, it is now common

practice for the police to refer suspected victims of trafficking to specialised counselling and assistance centres, despite their illegal status or unwillingness to lodge a complaint.

The ICMPD training approach itself emulates the very principles that are suggested more generally for anti-trafficking strategies. It is participatory and praxis-oriented, involving all the relevant stakeholders (law enforcement, NGOs, representatives of the national training academies and the office of the anti-trafficking coordinator) from the target countries. As a result of institutional cooperation - and in conformity with the principle of sustainability - a regional standard for training is developed, implemented and institutionalised at the national level.

Highlights

- ICMPD has provided both theoretical and practical tools for the training of law enforcement
- Theoretically, it has devised regional standards for the anti-trafficking training of law enforcement officers and best practice guidelines for national anti-trafficking responses
- Practically, it has designed curricula and methods of training (including case studies, role playing and simulations)
- ICMPD principles in relation to anti-trafficking are government ownership, civil-society participation, a human rights approach and sustainability
- These principles also guide ICMPD training strategies. All stakeholders are involved in establishing regional standards. These standards are based on a human rights approach and are subsequently institutionalised in the target countries with a view to sustainability

La Strada (Poland)¹⁰⁶

La Strada Poland is the main organisation providing assistance to victims of trafficking in Poland. Since 1999, La Strada has been involved in a series of projects focused on aware-

¹⁰⁶ The presentation of La Strada is based on Stana Buchowska's contribution to the DRC Conference and La Strada Interim Reports for 2003 and 2004.

ness-raising and training law enforcement. La Strada is well placed to play a role in law enforcement training it has first-hand information of the needs of trafficked women as well as of particular cases. La Strada Poland is in a unique position for training needs, as the socio-economic realities of Poland, as well as its geographical location, have made it into an origin, transit and destination country.

Training builds on specific La Strada cases and knowledge, and all materials are based on real stories. As Stana Buchowska has emphasised in her contribution to the OSCE Helsinki Conference, NGOs are generally best placed to provide valuable insights for training and for other institutions that encounter victims of trafficking.

NGOs can and should address the need to protect victims of trafficking on different levels:

- Through direct work with trafficked persons, by gaining their trust and securing confidentiality, NGOs can be more flexible and are able to create tailored individual assistance programmes based on a careful assessment of the needs of the victims.
- NGOs conduct advocacy and lobby work for the rights of trafficked persons.
- NGOs are a valuable source of information for other bodies (e.g. authorities) which would otherwise be unobtainable.
- NGOs can act quickly and respond immediately to a particular situation or problem, as they have their own well-developed informal, though professional, networking and referral systems. NGOs have a strong human rights background and often a better human rights approach than the authorities.¹⁰⁷

La Strada has played a major role in the civil society and law enforcement partnership. As part of the Ariadne project implemented by the Belarusian Young Women's Christian Association (YWCA) and La Strada Poland, relevant local NGOs and state

authorities were brought together to learn about the situation with regard to trafficking in human beings in the region and ways to cooperate to combat it and assist its victims. During the course of the project, several awareness-raising materials were produced. Some of the materials target professionals such as border guards and law enforcement officials in neighbouring Poland, while other materials target at-risk groups in Belarus.

La Strada Poland also cooperated closely with La Strada Ukraine in preparation training for professionals in Łuck, Ukraine, within the project BRAMA - Harmonisation of Trans-Border Cooperation. The training was held in Łuck in January 2004 with the participation of a representative of La Strada Ukraine, who made a presentation about the situation in Ukraine and La Strada's main activities. The seminar was intended to sum up the project results, exchange information and experience and transfer know-how between professionals, the representatives of judicial authorities, police officers, border guards, NGOs and organizations in charge of rehabilitation assistance.

As part of the project 'Police Academy' in cooperation with police representatives, border guards, prosecutors and teachers from the police and border guard academies, La Strada Poland published a new brochure, 'Trafficking in persons: a handbook on the problem of trafficking', which is used by officers in practice and will also be used for courses on trafficking for students of police academies and border guard academies in future academic years.

The different training projects undertaken by La Strada Poland have connected multiple objectives:¹⁰⁸

- a better understanding of the phenomenon of trafficking
- a better understanding of situation of victims of trafficking
- a change of attitudes among law enforcement representatives towards trafficking and trafficked persons
- the reduction or elimination of the victimisation, marginalisation and stigmatisation of trafficked persons

107 OSCE/ODIHR, 'Ensuring Human Rights Protection in Countries of Destination. Breaking the Cycle of Trafficking. Conference Report'.

108 La Strada Poland, La Strada Interim Report. January-June 2004 (Warsaw: La Strada, 2004).

- the improvement of cooperation among the law enforcement representatives of neighbouring countries
- better victim and witness protection
- a reduction in the negative side effects of trafficking
- improvements in the prosecution of trafficking as a crime
- better cooperation among law enforcement and NGOs/service providers
- the participation of law enforcement representatives in return and reintegration programs for trafficked persons
- the involvement of law enforcement representatives in the 'National action program of prevention and combating trafficking in persons in Poland'

La Strada has a specific training approach, which builds on the first-hand knowledge that the NGO has gathered from its experience of working with trafficked persons. Case studies play an important role in showing a different facet of trafficking. Case studies are not simply a tool for achieving better understanding of who the victims are, but an innovative means of exploring the reality of a phenomenon from the perspective of the most vulnerable. Similarly, role playing and simulations of the interrogation of trafficked persons are used. La Strada has innovatively used co-trainers, that is, trained law enforcement representatives, as support to La Strada trainers. Involving co-trainers creates a bridge between NGO trainers and new trainees and shows that training can be an effective process. The very presence of co-trainers reflects not only the success of La Strada's training methodology, but also their continuity in devising training seminars.

However, the role of local NGOs in providing training in law enforcement cannot be generalised. La Strada's position is defined not only by the expertise it has gained over years of work with victims of trafficking in Poland, but also as part of a strong, international network of La Strada branches. La Strada has therefore been acknowledged as a partner in Poland, as well as regionally (having, for example, provided training for other NGOs). Local NGOs are undoubtedly best placed to provide first-hand knowledge and descriptions of the experiences of trafficked persons. They can therefore shift the perspective, the 'looking-glass' through which law enforcement is accustomed

to regarding trafficking. The downside of this is the lack of authority that small partners may have, as well as the number of NGOs that might be active in a region. Thus the position of the NGO in a larger network, both nationally and regionally (or even internationally), is very important in devising and implementing effective training strategies.

It is important to point out that institutional relations are also relations of authority, not simply relations that are created through interactions and common understandings, goals and values. The question of authority and of how NGOs can create authority through knowledge is far from being negligible for those who want to design training models in order to make a difference.

The advantage of knowledge can work to sustain good practices locally by reaching out to other categories of professionals who can play a role in anti-trafficking. Thus La Strada's training projects spanned various categories of professionals, law enforcement officers, social workers, educators, teachers, therapists, other NGO representatives, students, etc. La Strada's curriculum has a double focus: on prevention, and on social assistance to the victims of trafficking. By reaching out to a larger and more diverse audience than law enforcement, NGOs can explore the potential for integrating concerns with trafficking into other policies. In training social workers and future social workers, La Strada has also explored of the potential for cooperation within the state welfare system.

Highlights

- La Strada: grassroots training, emphasising first-hand knowledge, role of NGOs
- Training strategies based on case examples, role playing, simulations
- Training of law enforcement involves co-training, i.e. already trained law enforcement professionals together with a La Strada trainer
- Training of other categories of professionals: opportunity to bring trafficking concerns within other areas and explore other possibilities for assistance

Raising questions, thinking further

Training is one of the most important methods for developing human rights-based responses to trafficking. Training is where *change can be directly effected, through the cooperation and interaction of law enforcement and civil society*. Unlike other processes of interaction and encounters between different actors, training has the explicit goal of changing understandings of and approaches to trafficking. Training makes the phenomenon of trafficking visible to those most likely to encounter it. It reshapes understandings of trafficking by means of a human rights approach. It also leads to 'democratic policing' by involving civil society in the practices of law enforcement.

The aim of training law enforcement officers is to create a coherent approach between human rights values, the understanding of trafficking and the rules that institutions apply. The work of ICMPD is very significant in this regard, as it promotes a human rights approach in the training of law enforcement officers, with a particular focus on South-Eastern Europe. Yet ICMPD is able to create this synergy, which makes law enforcement officers accept training, by showing the rules and values of anti-trafficking measures to be consonant with the rules and values of law enforcement. Thus the assumption with which NGOs work, namely that victims of trafficking are an 'exception' with respect to illegal migrants and prostitutes, is downplayed in favour of showing that victims of trafficking are useful for the goals and values of law enforcement. Thus it is not just that law enforcement needs 'exceptional' practices that might conflict with its normal practices and rules: it is in their interests to adopt them. For example, in relation to the treatment of victims of trafficking:

law enforcement officers should always adhere to this method, not only because it is the correct and caring thing to do so, but also because it is ultimately in the best interests of the investigation to do so because the cooperating

victim will always make a more resilient witness if given time and support to come to terms with her experiences.¹⁰⁹

Similar concerns will constantly be repeated in the guidelines. Important as such strategies can be on a short-term basis, they do not create the conditions for a re-evaluation of the rules and values of law enforcement. Thus, the recognition that restricted access to legal migration channels has itself contributed to the growth of the private recruitment business, which sometimes operates at the boundary of human trafficking,¹¹⁰ remains unquestioned.

The challenge for training is not to condemn law enforcement for the absence of a human rights approach, nor to show that law enforcement is only interested in having a human rights approach for the purpose of more effective prosecution. The former position neglects the fact that human rights exist differently for different categories in different fields. It is common sense that even criminals have some human rights, while the rights of victims of crime will be rather specifically defined. What it is important to show is how practices that exist in one field (e.g. law enforcement) can exclude categories that have entitlements to certain rights. The latter strategy risks falling back on the already existing institutional culture, where only certain categories (e.g. those willing to testify) have rights. The role of civil society has been to open up possibilities of human rights-informed practices for other categories.¹¹¹

The training of law enforcement officers and other officials has proved to be an effective practice for making trafficking visible in its various aspects. Training strategies like La

109 ICMPD, Regional Standard for Anti-Trafficking Police Training in SEE.

110 ILO, A Global Alliance against Forced Labour. Global report on the follow-up to the ILO declaration on fundamental principles and rights at work, 48.

111 See, for example, the Anti-Slavery International report on protecting the rights of trafficked persons by creating rights for migrants, Anti-Slavery International, The Migration-Trafficking Nexus. Combating Trafficking through Migrants' Rights (London, 2003).

Strada's bring in people's lived experiences, thus challenging the knowledge and experience acquired in a different field. Training can make apparent the effects that certain practices have on people, how they can render them more vulnerable. Without protection and the regularisation of their statuses, victims of trafficking would be even more vulnerable.

However, training is not limited to the relationship between civil society and law enforcement, or to changing institutional cultures. The EEG Report has drawn attention to other target groups for training beyond the police and law enforcement: border guards, customs officials, consular staff, labour inspectors, health inspectors, trade unions and employers. All these groups may come into contact with trafficked persons, and it is important that they be able to recognise the phenomenon. Rather than leading to generalised surveillance, these different professionals should be able to advise suspected victims of trafficking whom they encounter about their rights.

Conclusion

Conclusions usually take stock of what has been done and point ways forward, point out what is still to be done. This manual has itself been prompted by the urgent question of what is to be done, a question repeatedly asked in relation to human trafficking by different actors in various places. The answer is not a straightforward one, but depends on context, location, institutional history, legislative framework, etc. There are, however, ways of going beyond the limitations of context and history by developing innovative practices that can offer challenging responses to some of the operational questions concerning trafficking. Finding modalities of cooperation, setting up mechanisms of collaboration, and reaching agreements between civil society and law enforcement are some such responses. While these do not provide the only answer to the question of 'what is to be done?', they are important ways of tackling the complexity of both trafficking and our own societies. The multiplicity of institutional actors, with their various goals, values and understandings, is inevitable. The multiple facets of trafficking are also incontestable. Cooperation is therefore one of the means of responding to the challenges of complexity and achieving good practice. As such, cooperation has been at the heart of this manual.

To be able to assess the role of cooperation in achieving good practices, the manual has proposed criteria by which to judge them. Instead of proposing ready-made recipes, the author has tried to reflect upon good practices and possibilities for improving them with the help of conceptual tools. This manual has therefore broken practices down into their constitutive elements (goals, values, rules and understandings) and has proposed a threefold perspective for analysis: the perspectives of coherence, efficiency and subjective effects. Practices of cooperation have been considered in relation to three modalities of approaching the complexity of trafficking: rendering victims visible (identification and referral), making rights visible (operational issues for assistance and protection), and making the phenomenon visible in its multiple aspects and understandings.

Coherence: the challenge of institutional cultures

Frameworks of cooperation are important tools permitting interaction between different actors and also enshrining their

respective responsibilities. Establishing cooperation, however, often presents a challenging endeavour. It may be difficult for organisations and agencies to overcome institutional differences and to realise and define common goals and objectives. Even when this threshold is crossed – for example, by building on the common ambition to make the problem of trafficking visible – differences are likely to persist in relation to the rules, standards and values according to which the problem is being tackled.

The practices discussed here have shown that cooperation is based on the recognition of different institutional cultures. An important lesson drawn from the case studies is that, to achieve good practice in cooperation between civil society and law enforcement agencies, an appreciation of the different assumptions and understandings regarding the problem of trafficking underpinning each actor is required. This is not to say that NGOs and law enforcement agencies will necessarily have to reach agreement on all aspects of these issues. KOOFRA and Pag-Asa have pointed out the different goals of civil society and law enforcement, but have nonetheless been able to make arrangements for cooperation to improve the situation of trafficked persons. Although the models presented in this manual appear very different, with varying degrees of institutional formalisation, intensity, scope and duration, they all share one similar feature, namely a process of the mutual moulding of institutional cultures.

As the examples have illustrated, multiple strategies may be deployed to achieve this. It may be done through a high degree of formalisation, as in the case of Pag-Asa, which has a formal role in Belgian legislation and procedures. It may be pursued by defining common strategic interests, as in the case of ICMPD, which has successfully argued that a victim-centred approach is in the interests of law enforcement agencies wishing to prosecute traffickers. Or it may be done by creating a mutual platform from which the respective priorities may be argued, as represented by the memorandum of understanding between the Hamburg police authorities and KOOFRA, which itself includes a mission statement from both

parties, as well as setting out a forum for ongoing discussions and debate.

Whatever path is pursued, the key to successfully improving practices is the acknowledgement of institutional differences. In this sense, it has been suggested that national Red Cross Societies could play a positive role in establishing cooperation, given their singular position as an auxiliary to governments while also remaining independent. Red Cross Societies would be in a unique position to help set up a framework of mediation between different organisation with the purpose of institutional cooperation.

What underpins these multiple strategies for establishing cooperation is the role of NGO knowledge. NGOs have achieved 'authority' as a result of the particular knowledge that they might offer, of their insights into the phenomenon of trafficking. This means that NGOs have made available to other institutions their first-hand knowledge of the victims of trafficking and of cases and stories available for training and writing up manuals that might offer law enforcement and other institutions more in-depth knowledge about trafficking (e.g. La Strada). In the process of making their knowledge available to other institutions, NGOs have started modifying institutional cultures. This transformation has been undertaken both indirectly, by way of interaction – e.g. KOOFRA, Pag-Asa, On the Road – or directly, through training. Training has as its explicit goal not just to make visible certain aspects of the phenomenon of trafficking, but also to achieve institutional change.

As a rather lengthy process that involves forms of negotiation and mediation, as well as transformation of institutional cultures, cooperation raises several problems. Institutional differences can be a drawback for a holistic approach and in achieving coherent practices. In relation to victim identification, cooperation appeared clearly as a mechanism to ensure more adequate identification. Civil-society organisations have started cooperation with law enforcement, and identification is now jointly done or even uniquely done by NGOs. The practice of mobile teams has enhanced the standing of civil socie-

ty by bringing together several NGOs specialised in victim identification and assistance. Yet, parallel to cooperation, the standardisation of victim identification could prove an important strategy for good practice.

In drawing up cooperation agreements, NGOs have started a gradual process of confidence-building with law enforcement. The existence of a legal framework does not mean that daily practices run smoothly. This manual has shown that trust is an important ingredient of cooperation. At the same time, confidence building also plays a part in the relationship that NGOs have with victims of trafficking. There is here a thin line that NGOs need to tread between gaining the trust of victims of trafficking and having a relationship of trust with law enforcement agencies. This double process of confidence-building may be perceived as contradictory, if not hypocritical, by victims of trafficking. The problem of building trust and confidence can, however, be offset by clear measures that consider the best interest of the victims.

Efficiency: the challenge of ownership

Efficiency is usually thought to be the direct result of fairly coherent mechanisms of cooperation. Involving more actors once the institutional differences have been either accommodated or transformed appears to be an indicator of efficient practices. Alliances and partnerships have long been the political answer to difficult problems.

Yet the models discussed here have shown that bringing actors together can have its disadvantages, unless the conditions under which these actors operate are carefully considered. NGOs and law enforcement agencies are differentiated by the financial limitations to their scope of action. The standing of various actors, their 'horizons' of action, are important conditions for the efficiency of cooperation. On the one hand, inequalities of standing can raise concerns about the fairness of cooperation and the distribution of responsibilities. On the other, as the experience of NGOs in south-eastern Europe has shown, financial constraints can pose important challenges for the framework of inter-institutional

cooperation. Without clear prospects of funding, cooperation can be brutally interrupted and victim-assistance programmes jeopardised. Thus practices cannot be reiterated in time, but lose their consistency and cannot be sustained. In this sense, efficiency needs to be linked with sustainability.

One response to these issues is ICMPD's endorsement of 'government ownership' in anti-trafficking strategies as a means of ensuring sustainability. As long-term arrangements can be beset by the vagaries of financing that NGOs often experience, governments must become financially involved and allocate the necessary resources that victim assistance and protection requires. Moreover, the growing responsibility of civil society for assistance and protection has 'relieved' governments of much of their responsibility for the welfare and social inclusion of their citizens and residents.

Both On the Road and Reaching Out have taken up rather extensive programmes of social inclusion, from vocational qualification to finding employment for trafficked persons. In the case of Reaching Out, it has even set up a business of its own and planned further business ventures. However innovative and efficient these practices have been in responding to the needs of trafficked persons, they raise an alarm about the responsibility of governments. Unemployment or insecurity of revenue, inadequate work conditions or a lack of labour rights are part of the larger economic situation that cannot be solved through the efforts of NGOs alone, however concerted these may be. A holistic approach to human trafficking needs to consider the larger context in which trafficking appears to be a problem. Civil-society organisations cannot become business entrepreneurs and continually risk their programmes through their dependence on the fluctuations of the market or other economic factors.

Subjective effects: the human rights approach reconsidered

One of the important criteria of good practices has been to consider both their direct and indirect effects. While anti-trafficking responses are attentive to the rights of trafficked persons, similar attention needs to be given to the unintended consequences that these responses might have upon other categories.

This manual has pointed out that the human rights approach relies on an understanding of human trafficking as 'an exception'. Victims of trafficking are different from other categories and constitute an exception to the normal rules that apply to migration, labour movement, exploitation or other forms of violence. While this understanding might create the impetus for institutional cooperation to deal with an exceptional problem, it also constitutes a limitation for the scope of different measures. Legal provisions and good practices have therefore been designed exclusively for the purpose of trafficking. Enlarging the scope of trafficking to include other cases of exploitation has been met with distrust. While it is important to achieve cooperation – and while building on the idea of trafficked persons being an 'exception' has allowed for fairer provisions and greater protection for them – in the long term it is important to tackle not just the 'exception', but the 'extreme' as a prolongation of the normal.

The understanding of trafficking as an extreme abuse of human rights places trafficking within a continuum of other forms of exploitation and abuse. Lately, EEG and ILO have suggested such approaches. Trafficking is a prolongation of what have become normalised abuses and deceptions of migrants, especially illegal migrants or other stigmatised categories of society. It is therefore important to situate trafficking within a larger context, that is, of its structural causes (especially poverty and gender discrimination). Various NGOs have taken as their target larger groups which have been subjected to rights violations, and they have consequently focused on victims of trafficking as part of these other categories. This has been most explicit in the case of outreach units, but also with the more general practices of On the Road regarding social inclusion. Alternative sociale has also designed specific legal arrangements for child victims of crime, thus creating a framework in which child victims of trafficking can benefit from legal proceedings that differ from those for adult victims. A human rights approach that considers the context of trafficked persons abides by the credo of more rights for more people. Anti-trafficking strategies must consider – both at the

level of practice and in terms of advocacy – what effects certain understandings and actions can have upon the larger groups from which victims of trafficking may be recruited.

Making change happen: from micro-level to macro-level

The emphasis on cooperative arrangements has shown that 'what is to be done' in response to trafficking proceeds both at the micro-level and the macro-level. Certain practices of cooperation have achieved effects that have improved the lives of trafficked persons. They have led to gradual changes in how law enforcement agencies deal with trafficking and how victims of trafficking are perceived. These changes have taken place through multiple institutional interactions, collisions of practices, redefinitions of interests and corresponding rules for action, as well as new understandings of what trafficking means and what anti-trafficking practices entail for different categories of people. The main concern of these practices has been to improve the conditions of victims of trafficking by offering them better opportunities for recovery and inclusion. However, these changes need to be complemented by macro-level alternatives that consider larger contexts and important strategies for social inclusion. The situation of trafficked persons and their vulnerability to exploitation speaks of a larger reality of marginalised and vulnerable categories for which macro-level strategies are needed.

Annexes

List of Acronyms

DRC – Danish Red Cross
 EEG – European Experts Groups
 ICMPD – International Centre for Migration Policy Development
 IFRC – International Federation of Red Cross and Red Crescent Societies
 ILO – International Labour Organisation
 IO – International Organisation
 IOM – International Organisation for Migration
 MoU – Memorandum of Understanding
 NGO – non-governmental organisations
 NRM – National Referral Mechanism
 ODIHR – Office for Democratic Institutions and Human Rights
 OSCE – Organisation for Security and Cooperation in Europe
 UNDP – United Nations Development Programme
 UNESCO – United Nations Educational, Scientific, and Cultural Organisation

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