

Protocol for Identification and Assistance to

Trafficked Persons and Training Kit

Anti-Slavery International 2005

The Police Academy in the Netherlands, One The Road (Italy), Eaves Housing for Women (UK) & STV (NL)

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A NOTE: This manual is by no means a last word in identification of trafficked people. On the contrary—we hope that it will inspire discussions and brainstorming in your professional groups and that you will find numerous ways to amend, improve and make more effective the information provided. Therefore the material is not a book but a loose-leaf file, which we hope will be added to by your own experiences, notes and materials.

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WHAT is this?

This is a manual on identification of trafficked people in practice. It aims to provide basic information to those most likely to encounter trafficked person and help to make the difficult task of identification easier.

WHO is the manual for?

The manual was created in co-operation with and for practitioners. Those who can come into contact with trafficked person in their everyday work should use it: Front-line police and immigration officers, detention centres workers and services providers.

WHY should I read it?

In many cases, trafficked people have irregular immigration status and are identified as 'undocumented' or 'illegal migrants' or, those trafficked into prostitution, simply as 'prostitutes'. In most of the destination countries those who are not recognised as possibly having been trafficked, face swift deportation and/or possibly detention in immigration facility. As a direct outcome of not being identified, the trafficked persons are unaware of their rights and do not have access to assistance measures, which, according to the law, exist to support and assist them. The simple truth is that as long as the crime is not recognised, it cannot be investigated and prosecuted.

HOW can I use this in practice?

One can use the material in 4 different ways:

- As a background information about existing international instruments and their relevance for law enforcement work (part I.)
- As a practical tool with list of indicators, check lists and recommended questions for interviewing trafficked person (part II.)
- As a training material for introduction into the issues of identification of trafficked people (part III.)
- As a resource on national legislation and possibilities of referrals and recommended assistance to trafficked people (part IV.)

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Defining the problem - International law for national law enforcement

I. Introduction

The following part of the handbook offers a brief overview of international law on trafficking in persons. Its main aim is to put the issue of trafficking into the context of human rights and explore where the law enforcement agencies are positioned as crucial agents in terms of protection of the fundamental rights and freedoms of trafficked persons.

This material is primarily an introduction into trafficking issues and key problematic areas directly relating to the work of law enforcement agencies. It is by no means exhaustive but rather an introduction material, which can be used in several ways:

- As an introduction into the issue for interested professionals
- As a basic background for educational materials
- As a reference list for further exploring the issue of trafficking in persons

As the title suggests, this part of the handbook is answering the questions of how trafficking in persons, forced labour, slavery and slavery like practices are defined. The text brings several examples of what trafficking means from the victim's perspective and explores how it can be recognised in practice. The document also raises the issues of what is the difference between trafficking in persons and migration, why trafficking in persons remains to be a high profit and low risk crime and what role, and opportunities law enforcement agencies have in changing the status quo.

II. What is Trafficking in Persons?

The term 'trafficking' was used as early as by the end of the 19th century. However, since then, there was a persistent confusion about what trafficking exactly means, in other words, what practices should actually be combated. This lack of clarity was reflected in various, sometimes contradictory, definitions and concepts used in national legislation and international instruments.

The elements of human rights violations that occur within the process of trafficking are addressed in numerous international treaties. Particularly relevant is the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the ILO Forced Labour Conventions 29 and 105, the Convention on the Protection of All Migrant Workers and their Families and the Convention on the Elimination of All Forms of Discrimination Against Women (1979).

The most recent and comprehensive international treaty that focuses specifically on trafficking is the **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)**. The 'Trafficking Protocol' (or 'Palermo Protocol') is one of the two protocols attached to the Organised Crime Convention. The other focuses on smuggling in persons. The separation of those two documents is important because it reflects the difference between the two acts.

Article 3 of above mentioned Palermo Protocol defines trafficking in persons as follows:

(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 practice shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

This definition was used by Anti-Slavery International and its partners in the course of the preparation of this document.

Even though trafficking has a long definition history, it is now accepted that it covers three elements, which are:

- Recruitment, transportation, transferring, harbouring or receipt of person
- Means of threat, use of force, coercion, abduction, fraud,, deception, etc
- Purpose or act of exploitation, including sexual exploitation, forced labour , slavery and slavery-like practices.

III. What are Slavery, Slavery-like Practices and Forced Labour?

Trafficking, in persons is a concept closely linked with slavery, slavery-like practices and forced labour. It is therefore necessary to define those terms.

Although the Palermo Protocol does not offer a detailed description of what is meant under the terms of forced labour or services, slavery or practices similar to slavery, the use of forced labour has been condemned by the international community as a practice similar to but distinct from slavery. The League of Nations and the United Nations have made a distinction between slavery and forced or compulsory labour and the International Labour Organization (ILO) was given principal responsibility for the abolition of the latter.¹

The ILO Forced Labour Convention (No. 29), 1930, defines forced labour as: “all work or services, which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. The existence of an element of coercion is useful indicator of forced labour. Coercion itself though, is a broad and open concept. Rigorous implementation of the legal definition of forced labour – and by extension trafficking – requires being able to assess any given situations. It had been suggested, with reference to the travaux préparatoires of the Palermo Protocol, that coercion exist in “any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved”.² Experiencing loss of control over one’s life comes as a general indicator of the existence of coercion and forced labour.

The following list of indicators can be used for identifying forced labour:³

- Threats or actual **physical harm** to the worker.
- **Restriction of movement** and confinement, to the workplace or to a limited area
- **Debt bondage**: where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt.
- **Withholding of wages** or excessive wage reductions that violate previously made agreements.
- **Retention of passports** and identity documents, so that the worker cannot leave, or prove his/her identity and status.
- **Threat of denunciation** to the authorities, where the worker is in an irregular immigration status.

Those practices impose a degree of restriction of individual’s freedom-often achieved through violent means. However, the definition of forced labour does not incorporate the concept of ownership as do the two slavery conventions:

The League of Nations Slavery Convention (1926) defines slavery as: “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (atr.1 (1)).⁴

The Supplementary Convention on Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) includes into definition also “debt bondage, serfdom, certain institution and practices related to marriages of women without their right to refuse them, any exploitation of child labour by others than their parents etc, which are collectively referred to as the “servile status”.

This difference between forced labour and slavery is related to the concept of ownership. Nonetheless, when talking of trafficking, the key issue is that in both cases, people face exploitative situations.

¹Weissbrodt, D & Anti-Slavery International, Abolishing Slavery and its Contemporary Forms, Working paper, Office of the United Nations High Commissioner for Human Rights, New York, 2002.

²General Assembly, Travaux Préparatoires, A/55/383/Add.1, at para. 63, quoted in Weissbrodt, D & Anti-Slavery International, Abolishing Slavery and its Contemporary Forms, Working paper, Office of the United Nations High Commissioner for Human Rights, New York, 2002. supra note 11, at footnote 109.

³See the Special Action Programme to Combat Forced Labour, Human Trafficking and Forced Labour Exploitation - Guidance to Legislation and Law Enforcement, ILO, Geneva, 2005.

⁴Weissbrodt, D & Anti-Slavery International, Abolishing Slavery and its Contemporary Forms, Working paper, Office of the United Nations High Commissioner for Human Rights, New York, 2002.

The definition of forced labour is not based on the concept of ownership as are the two slavery conventions.

However, forced labour imposes a degree of restriction of individual's freedom, often achieved through violent means.

Integral part of trafficking in persons is usually either slavery/slavery-like practises or forced labour.

IV. What is the difference between migration, trafficking and smuggling?

Another clarification needed in relation to trafficking is the distinction to be made between migration trafficking and smuggling. If we agree that migration is a movement from one place to another, assisted by a smuggler or not, when on arrival at their destination the migrants are free to make their own way, then trafficking is fundamentally different. It involves the movement of people for exploiting their labour or services.

Migration may take place through regular or irregular channels and may be freely chosen or forced upon the migrant as a means of survival. The phenomenon of migration covers:⁵

- Permanent immigrants—documented migrants admitted for permanent resettlement in the host country.
- Temporary migrant workers—admitted by a country other than their own for the explicit purpose of exercising an economic activity. They can be seasonal migrant workers, project-tied migrant workers, contract migrant workers
- Refugees —“ any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country”.⁶
- Irregular or undocumented migrant workers—those who do not comply with the conditions necessary to be authorised to enter, to stay and to engage in a remunerative activity in the country of employment. They can be:
 1. Those who enter the country legally but whose stay or employment contravene the law (for example visa expiry)
 2. Those whose stay and entry are lawful but who do not have the right to work and are engaged in illegal or illicit employment;
 3. Those who enter the country illegally and who seek to change their status after arrival to find legitimate employment;
 4. Those who have entered the country illegally, whose stay is unlawful and whose employment is illegal.

If the method of migration is irregular, then a smuggler, who will facilitate illegal entry into a country for a fee, may assist the migrant. The smuggler may demand an exorbitant fee and may expose the migrant to serious dangers in the course of the journey, but on arrival at his/her destination, the migrant is free to make his/her own way and normally does not see the smuggler again.

For trafficked people it is often only once they arrive in the country of destination that their real problems begin, as usually, they were promised a job that does not exist and they are forced instead to work in jobs or conditions to which they did not agree on. Even though trafficking includes an element of movement, the crucial aspect of identifying it is not the movement or the site of work per se but the brokering, lack of consent and mainly the exploitative conditions of work.

Trafficking, smuggling and migration are different but inter-related issues.

- In all cases, the movement is included.
- When a migrant migrates or is smuggled, he/she is, at the end of the journey, free to make his/her own choices.
- On the contrary, a trafficked person is, on arrival, forced into conditions of work he/she has not agreed on.

⁵Categorisation based on Bilsborrow R.E., Hugo G., Oberai A.S and Zlotnik H., International Migration Statistics Guidelines for Improving Data Collection Systems, ILO/UNFPA, Geneva, 1997.

⁶United Nations, Convention Relating to the Status of Refugees, 1951.

V. What is trafficking in persons in practice?

Trafficking in persons has been described as "structural," as opposed to "episodic," meaning that it affects thousands of individuals world-wide and often requires complex interactions between individual traffickers, international criminal networks and state structures.

The core element of the above trafficking definition can be broken down into:

- a) Movement from one place to another
- b) With deception or coercion, abuse of power or of a position of vulnerability etc.
- c) Into conditions of exploitation (slavery, servitude, forced labour)

The following elements of the Palermo Protocol determine whether or not trafficking occurred⁷ :

a) Movement from one place to another

• acts or attempted acts:

The acts or attempted acts of trafficking are characterized by the coercive and abusive conditions into which the trafficker intends to place his/her victim.

• recruitment:

The recruitment process can take place in both formal and informal ways. Many trafficking cases involve a process of recruitment through registered or illegal agencies that organize and "facilitate" the process of travel from one country to another. A community member, family member, or any other intermediary however can arrange the recruitment as well.

• transportation within and across borders....:

Some form of physical movement or transportation is needed for trafficking to occur. The movement often occurs between different countries, but can occur without the crossing of international borders. In either case, the victims are moved to an unfamiliar place, far from home and under the control of the traffickers.

• through legal or illegal channels of migration:

Trafficking can occur whether people are moved by legal or illegal means. Trafficking can happen to migrants with legitimate visas or work permits, who entered a country legally, but had been deceived/forced/threatened and had not agreed on the conditions of work. Irregular migrants are obviously more at risk of being subjected to forced labour and exploitation, but regular migrant are also routinely denied both their human and labour rights. A recent study on "Forced Labour and Migration to the UK", brings the example of South Asian workers who entered the UK on legal permits in the manufacturing industry, and who were threatened with violence and deportation if they refused to accept to work 12 hours-shifts from Monday to Friday and 9 hour-shifts on weekends, followed everyday by cleaning the employer's residence.⁸ The study also mentions a Filipina nurse who, having a legal status, felt constrained to stay and work by fears that her employer would remove her work permit⁹.

b) With deception or coercion, abuse of power or of a position of vulnerability etc.

• purchase, sale, transfer, receipt or harboring of a person:

Traffickers use one or more of these actions when they move the trafficked person from the place of origin to the place of destination.

⁷ (based on Global Alliance Against Trafficking in Women, Human Rights and trafficking in Persons: A Handbook, Bangkok, 2001.)

⁸Anderson B. Rogaly B., Forced Labour and Migration to the UK, TUC/Compass, London, 2004.

⁹You are a slave, you can't go, even if you want to....If I knew beforehand, obviously I wouldn't get into that situation... but when you are in the situation, the work permit holds you". Quote from Anderson B. Rogaly B., Forced Labour and Migration to the UK, TUC/Compass, London, 2004.

- **deception: put coercion, deception, debt bondage and vulnerability sections together**

Trafficked persons are usually deceived into their vulnerable situation. People may be offered further education, marriage or a well-paid job and end up in forced labor or a forced marriage. If a woman is trafficked into prostitution, she may know she is going to work in the sex industry, but not that she is going to be deprived of her liberty or her earnings. This is still trafficking. In most cases traffickers deceive trafficked persons about the conditions under which they will be forced to live and/or work.

- **coercion (including the use of threat of force or the abuse of authority):**

Some traffickers may use force to abduct a victim and others use violence or blackmail to keep a trafficked person under their control. Trafficked persons are dependent upon the traffickers for food, clothing and housing and must submit to the demands of their captors. Traffickers usually restrict a victim's freedom of movement or prohibit victims from leaving the workplace without an escort. Coercion may also be psychological. Abuse of authority involves dependency situations in which a person who has power over another person (such as a relative or the employer) denies the rights of the dependent person. In the context of trafficking, victims are often moved into foreign communities (although this doesn't always mean they have been taken across borders). They are isolated from their families and sometimes their language and, thus, rendered even more dependent upon the traffickers for food, shelter, information and "protection" from authorities.

- **or debt bondage**

Many trafficked persons are forced into a debt-bondage situation. Once at the destination they are told they will have to work to pay back a large and increasing sum of money for travel expenses, housing, clothing, medical and/or food expenses. Traffickers have full control over their employee's movement and their income. The victim is never able to pay back the extraordinarily high debt, but the trafficker tells him/her the debt will be paid off "soon". Trafficked persons, who are anxious to start earning money, believe the lie and continue to submit to their conditions in the hope that the debt will soon be paid off and they will start earning money. However, the traffickers continually find new (fictitious) expenses to charge and the payoff date continues to be postponed.

c) Into conditions of exploitation (slavery, servitude, forced labour)

- **servitude (domestic, sexual or reproductive), in forced or bonded labor, or in slavery like conditions:**

Many people are trafficked into situations not strictly involving forced labor or slavery (by legal definition). In some cases women are trafficked into forced or servile marriages where no money changes hands. Other persons are held as household servants and others may simply be held captive. Forced labor, servitude and slavery are all crimes prohibited as human rights violations in international law. They cover all situations into which people are trafficked. The kind of business or service into which a person is trafficked does not dictate whether or not trafficking occurred. People are trafficked for many types of situations, such as domestic, manual or industrial work in formal or informal sectors or marriage or other kinds of relationships. Coercive conditions/relations in these situations constitute acts or attempted acts of 'trafficking'.

Trafficking is a mixture of different elements, which include:

- recruitment,
- transportation within or across borders,
- through legal or illegal channels of migration,
- purchase, sale, transfer, receipt or harboring of a person,
- using deception,
- coercion,
- debt bondage,
- servitude in forced or bonded labor, or in slavery like conditions,
- into a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage.

VI. Why is trafficking a High-Profit and Low-Risk Crime?

A lot had been said about the ever-growing number of people being trafficked annually. A lot can be said about the abuses and suffering it causes. The simple truth is that as long as the crime is not recognised, it cannot be investigated and prosecuted.

Trafficking is indeed being described as Low-Risk—High Reward enterprise. Harvey¹⁰ suggests that this is caused by:

- The principal or key figures not being arrested.
- The vulnerability of victims
- The fact that many investigations into trafficking networks are still based on victim's complaint
- The difficulties faced by prosecutors in gathering evidence and presenting cases
- The response from law enforcement generally

In an attempt to address the problem on the EU level, the EU Framework decision¹¹ on Combating Trafficking in Human Beings as well as the Council Directive¹² on the residence permit issued to third-country nationals, who are victims of trafficking in human beings, were drafted. Those legal instruments are the opportunity for the destination countries to ensure that the rights of trafficked persons will be addressed. EU Council Framework Decision obliged all EU Member States to harmonise their domestic criminal legislation on trafficking by 2004, including the adoption of a common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

However, although the EU countries have adopted new laws criminalising trafficking in persons and protecting the victims, the implementation has been fragmented. One of the key problems remaining is the lack of identification of trafficked persons as such. The process of identifying trafficked persons and referral mechanisms in most countries are still ad hoc and arbitrary. Access to services and appropriate support can vary enormously depending on where a trafficked person is first encountered, which agency first works with the person, whether or not the staff member involved has any knowledge of trafficking and even whether they 'believe' the person's experiences.¹³

In many cases, trafficked people have irregular immigration status and are identified as 'undocumented' or 'illegal migrants' or, those trafficked into prostitution, simply as 'prostitutes'. In most of the destination countries those who are not recognized as possibly having been trafficked, face swift deportation and/or possibly detention in immigration facility. As a direct outcome of not being identified, the trafficked persons are unaware of their rights and do not have access to assistance measures, which, according to the law, exist to support and assist them.

Four out of the five above stated reasons for trafficking being a low risk crime fall down to the identification and protection deficit. The trafficking Protocol outlines in Articles 6,7, and 8 the core protection and assistance measures, which should be available to trafficked people. These include:¹⁴

- Temporary or permanent residence permit
- Appropriate housing
- Information and counselling, in particular about their legal right
- Medical, psychological and material assistance
- Employment, education and training opportunities
- Opportunities for legal redress and compensation; and
- Due regard being given to a person's safety when carrying out return, which should preferably be voluntary

¹⁰Harvey S., Trafficking in Human Beings for sexual exploitation; Europol, Trafficking in human beings group, 2005.

¹¹European Council, Council Framework Decision on combating trafficking in human beings, 2002.

¹²Council of Europe, Council Directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, 2004

¹³Marshall, D, UK Country paper, AGIS project JAI/2003/AGIS/083

¹⁴Kaye, M., The Migration-Trafficking Nexus Anti-Slavery International, London, 2003

- The importance of the protection and assistance measures is echoed in the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking, which included into the Guideline 5 on adequate law enforcement response following recommendations:
- Implementing measures to ensure that “rescue” operations do not further harm the rights and dignity of trafficked persons. Such operations should only take place once appropriate and adequate procedures for responding to the needs of trafficked persons released in this way have been put in place;
- Making appropriate efforts to protect individual trafficked persons during the investigation and trial process and any subsequent period when the safety of the trafficked person so requires. Appropriate protection programmes may include some or all of the following elements: identification of a safe place in the country of destination; access to independent legal counsel; protection of identity during legal proceedings; identification of options for continued stay; resettlement or repatriation;
- Encouraging law enforcement authorities to work in partnership with non-governmental agencies in order to ensure that trafficked person receive necessary support and assistance.

However, for example the research of UNICEF, UNOHCHR and OSCE-ODIHR¹⁵ conducted in 2002 established that 65% of trafficked women and girls are not assisted. The research indicated following reasons:

- Focus on return of trafficked persons and their legal status as irregular migrants instead of status as victims of trafficking;
- Restricted access to shelters- no safe place or assistance to victims not willing to return to country of origin;
- Lack of special services and treatment for children under 18;
- Lack of legal framework for assistance;
- Lack of engagement of local NGOs in assistance work;
- Inadequate security and lack of witness protection;
- No alternatives to return

Because the lack of identification and protection encourages trafficking to flourish, it is crucial to enforce the law in those two areas.

Do you want to put in somewhere here that often trafficking is only recognised, both in laws, and in enforcement practice, as occur ringing into forced prostitution. In fact trafficking occurs for all forced labour purposes. Harmonisation of EU laws requires that all members states should criminalise trafficking for all forced labour purposes, and law enforcement and other officials should be aware of trafficking for all forced labour purposes

Trafficking, because of its hidden nature and because it is not recognised, is not investigated and prosecuted and remains a high-profit and low-risk crime.

Some of the reasons for that fall down to identification and protection deficits.

Therefore, those areas particularly need appropriate law enforcement.

¹⁵UNICEF, UNOHCHR and OSCE-ODIHR, Trafficking in Human Beings in Southeastern Europe, Belgrade, UNICEF, June 2002, p.144.

VII. We know the law. Do we use it to protect rights, or....?

Over the course of the project Anti-Slavery International looked at various identification models determining who is trafficked person, and what referral mechanisms and assistance measures do exist both in the countries of origin and destination:

' Although it is generally understood that the Trafficking Protocol definition of trafficking in persons is the one that States and professionals observe, institutional and individual understanding of what trafficking actually is in practice and who is the victim, varies considerably. Apparently, the confusion between trafficking in persons and migration, be it regular or irregular, is a persistent practical problem.

In the Netherlands for example, a research shows that the top five nationalities represented among the 1000 women held as illegal migrants in detention centres in 2003 are the same as the ones recorded for identified trafficked women into the Netherlands. One might conclude that there is confusion between illegal migrants and trafficked women who are not considered as such.¹⁶

On the other hand, the over-generalisation/misperception that every migrant is a victim and in particular that "men migrate, women are trafficked", can have equally problematic effects¹⁷. An example is that of a shelter in Albania to which all women departing to Italy and found in irregular collecting points were referred by the local police, being 'labelled' as trafficked.

' The access to assistance is often dependent on the victim's willingness to co-operate and his/her 'usefulness' for the criminal proceedings. For example the UK Home Office in 2003 established a criteria for trafficked person to be referred to specialised service, which included that: (the person) is working as a prostitute in the last 30 days (in the UK), (the person) has come forward to the authorities, (the person) is willing to co-operate with the authorities.

The criteria to access assistance in destination countries can be very selective, gender discriminating and by no means in line with the definition of trafficking (and subsequently the definition of a trafficked person) as outlined by the Trafficking Protocol.

Human rights are often not at the centre nor and integral part of identification, referral and assistance processes. Often one central shelter is used to accommodate the trafficked person as well as a place where the police carry out the questioning. Over the course of the project we came across many practices intentioned to enhance victim's wellbeing and/or security, which, however, did not respect basic human dignity and human rights of the trafficked people. Namely the practice of mandatory medical check ups and HIV testing, compulsory counselling, restriction of the victim's freedom of movement, using the victim's personal data, contacting victim's family or informing the officials back in his/her country of origin about the victim without his/her previous consent, were mentioned as measures used in several cases in both countries of origin and destination.¹⁸

One of the key findings of a two-year long research by Anti-Slavery International¹⁹ concluded that the current models of protection offered to trafficked persons prioritise the needs of law enforcement over the rights of trafficked persons. The report's findings indicate that law enforcement officials have tended to be the most successful in securing convictions when trafficked persons' rights have been respected rather than disregarded. In the successful cases, there have been committed teams of law enforcement, prosecutors, lawyers and services providers, who all displayed sensitivity to the needs and rights of trafficked person in each case. However, in the vast majority of cases, the trafficked person, if recognised, is seen primarily as a witness, and as a tool of law enforcement. If this continue to be the trend, warns the report, the rights of victims to have access to justice will continue to be denied, and prosecution will fail because trafficked persons will be neither willing nor able to testify. It is therefore necessary to be able to identify victims of trafficking and once identified as such, to respect their human rights and especially their right to access justice.

¹⁶White, A.G., Human Rights and Trafficked Women in Enforced Prostitution: A Case of Civic Stratification in the Netherlands, Dissertation Research project; Human Rights Centre, University of Essex.

¹⁷Gender Promotion Programme, Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers, An information guide, ILO, Geneva, 2003. Booklet No 6, Trafficking of Women and Girls.

¹⁹Pearson E., Human Traffic Human Rights: Redefining Victim Protection, Anti-Slavery International, London, 2003

Even though jurisdictions have clear definitions, in practise, the confusion between trafficking in persons, smuggling and migration is persistent.

This cause an over-generalisation/misperception that every migrant is a victim or that there are only very few 'genuine' victims.

Other problems in the identification include:

- The access to assistance is restricted because it is often selective, gender discriminating and dependent on the victim's willingness to co-operate.
- Sometimes, human rights of the trafficked people are not respected during the process of identification and assistance.

VIII Access to Justice is a Fundamental Right

The role of law enforcement agencies in protecting the human rights is recognised as instrumental in a number of international documents. Namely, the United Nations Code of Conduct for Law Enforcement Officials²⁰, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power²¹ and the European Code of Police Ethics²² are setting out the protection of and respect to the individual's fundamental rights and freedoms²³ as one of the key objectives of law enforcement.

The Universal Declaration of Human Rights (UDHR) contains a number of articles, which are particularly relevant for law enforcement work, such as the right to life, liberty and security of person, ²⁴equality before the law and entitlement without any discrimination to equal protection of the law²⁵. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence²⁶.

Under the UN Declaration of Basic Principles of Justice²⁷, victims of crime are entitled to access justice, legal redress and compensation.

Nonetheless, it is an uneasy task to define the precise meaning of the term 'victim'. Many services providers and many victims themselves do not wish to have the label applied to them at all, preferring terms as 'survivor' or trafficked person.

Even if they are willing to use the term 'victim', victimologists and victim assistance practitioners recognise that "the definition varies considerably and is influenced by the context (sociological, legal, geographical, practical) within which the term is used."²⁸

The EU legally binding definition instructs that, at a minimum, 'victim' shall mean "a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are of the criminal law of a member State (of EU)²⁹.

²⁰adopted by the General Assembly in its resolution 34/169 of 17 December 1979

²¹adopted at the 96th plenary meeting on 29 November 1985

²²adopted by the Committee of Ministers of the Council of Europe on 19 September 2001

²³including but not limited to The European Convention on Human Rights (ECHR), 1950; the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), The Convention on the Elimination of All forms of Discrimination against Women (1979), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (1984), the Convention on the Rights of the Child (1989), the Convention on the Protection of the Rights of All Migrant Workers and their Families (1990)

²⁴(Article 3, UDHR),

²⁵(Article 7, UDHR).

²⁶(Article 11(1), UDHR)

²⁷UN Declaration of basic Principles of Justice for Victims of Crime and Abuse of Power

²⁸What victims want to know, Sue Moody, Paper submitted for the Xith International Symposium on Victimology, Stellenbosch, South Africa

²⁹Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 1, para 1

However, in a certain numbers of categories of crime, including trafficking in persons, the impact reaches far beyond the immediate victim. The strict approach to defining victim may thus lead to excluding members of families or caregivers, who can suffer harm due to the crime and/or its consequences. The definition of 'victim' in the Declaration of Basic Principles of Justice for Victims of Crime addresses this problem: a person can be considered as a victim "regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation"³⁰

The States and their authorities are responsible for ensuring that all victims have access to the justice system as well as support them through the justice process, which should be designed to minimise the obstacles that victims may face in seeking justice. The EU Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings³¹ outlines the core rights of victims of crime. These include the right to be treated with respect for their dignity, the right to provide and receive information, the right to understand and be understood and the right to be protected at the various stages of procedure.

1. Treatment of victims with respect and recognition

Granting the victim basic human respect reassures the victim of the condemnation of the crime, and of interest of the community in justice: This is a basis of building a communication and co-operation. At the same time, treating victims in a respectful manner often contributes to their greater willingness to assist in the investigation and juridical process³². He states and their law enforcement bodies shall continue to make every effort to ensure that victims are treated with due respect for the dignity of the individual during proceedings and shall recognise the rights and legitimate interests of the victims with particular reference to criminal proceedings³³

2. Right to hearing, provision of evidence and right to receive information

Informing victims of their rights and responsibilities: Various jurisdictions have taken various approaches in consideration of the views of the victim. The police experience shows that success in communication depends on the extent to which the victim is informed and understands his/her rights and responsibilities. The information can be delivered in many forms, including publications and leaflets in the language of the victim. The victim, from the first contact with law enforcement agencies, should have an access to and understanding of at least following information:

- (a) the type of services and organisations to which they can turn for support;
- (b) the type of support which they can obtain;
- (c) where and how they can report the offence;
- (d) procedures following such a report and their role in connection to such a procedures;
- (e) how and under what conditions they can obtain protection;
- (f) to what extent and on what terms they have access to:
 - (i) legal service or
 - (ii) legal aid, or
 - (iii) any other sort of service

if, in the cases envisaged in point (i) and (ii), they are entitled to receive it;

- (g) requirements for them to be entitled to compensation;
- (h) if they are resident in another State, any special arrangements available to them in order to protect their interest³⁴

³²Handbook on Justice for Victims (On the use and application of the Declaration of Basic principles of Justice for Victims of Crime and Abuse of Power); United Nations Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, New York, 1999

³³Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 2.

³⁴the list of information: Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 4, para 1

The information provided should be as clear as possible. Information provision should take account of the effects that a severe psychological trauma may have on people's cognitive abilities. There may be difficulties for victims who have been seriously traumatised in assimilating and understanding information, in separating out the essential parts of the information and in communicating their concerns about what they receive.³⁵

Keeping the victim informed:

If the victim expressed a wish to be informed about a developments in the case, all necessary measures should be taken to ensure that. Victim should be kept aware in particular if decisions are taken; about the outcome of their complaints; about the relevant factors enabling them, in the event of prosecution, to know the conduct of the criminal proceedings regarding the person prosecuted for offences concerning them; the court sentence.³⁶

Further, all necessary measures should be taken to ensure that, at least in cases where there might be danger to the victim, when the person prosecuted or sentenced for an offence is released, a decision may be taken to notify the victim.³⁷

The victim as witness:

The victim is generally in the best position to provide the investigating authorities, the prosecutor and the court with information on various aspects of the crime. Research shows that victims treated well are more willing to cooperate and make better witnesses³⁸. The victim/witness should be fully informed about the relevant steps in proceedings and consequences of those. The risk of intimidation, which is usually at its greatest during a court hearing, is tackled in a number of countries thanks to jurisdictions seeking to protect the victim's privacy and safety, for example by taking of evidence with video or closed circuit television.

3. Right to protection from harm and access to assistance

It shall be ensured that victims who are particularly vulnerable can benefit from specific treatment best suited to their circumstances.³⁹ Particularly, it should be ensured that the victim is protected from a risk of reprisals and/or intrusion upon his/her privacy. Indeed, traffickers or people being complicit often intimidate the victims in order to keep them quiet, to prevent them from looking for help and from seeking justice. Once the complaint is brought to court, they may harass the victim and blame them violently for having reported the crime to the police. This can be made even worse when the relation between the offender and the victim is very close (members of family or co-workers).

It is crucial to set-up conditions for preventing secondary victimisation and avoid placing victims under unnecessary pressure. This shall apply particularly as regards proper initial reception of victims⁴⁰. At police stations and courthouses, the victim should be protected by providing, where possible, separate waiting facilities, so that he or she does not come into contact unnecessarily with the suspect or with family members of the suspect.⁴¹

States and their bodies shall ensure that victims have access to victim support system, which should include providing victims with information; assisting victims according to their immediate needs, accompanying victims, if necessary and possible during criminal proceedings, assisting victims, at their request, after criminal proceedings have ended.⁴²

³⁵(Luirigio, 1987 in What victims want to know: Information needs and the right to information (Sue Moody, Director, Victim Information and Advice, Paper submitted for the Xith International Symposium on Victimology, 13-18 July 2003, Stellenbosch, South Africa)

³⁶Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 4, para 2

³⁷ibid

³⁸Handbook on Justice for Victims (On the use and application of the Declaration of Basic principles of Justice for Victims of Crime and Abuse of Power); United Nations Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, New York, 1999

³⁹Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 2, Para 2

⁴⁰ibid, (Article 15, para 1)

⁴¹ibid, see also article 8, para 3

⁴²ibid, Article 13, para 1, para 2

A victim support system should be available to the person, regardless his/her decision to report the crime. Whether through the provision of specially trained personnel within public services or through recognition and funding victim support organisations at minimum following should be guaranteed:

- (a) providing victims with information
- (b) assisting victims according to their immediate needs;
- (c) accompanying victims, if necessary and possible during criminal proceedings;
- (d) assisting victims, at their request, after criminal proceedings have ended⁴³

Keeping those fundamental rights in mind, law enforcement agencies should ensure that all victims have access to justice and that their rights are being respected during the process.

The States and their authorities are responsible for ensuring that all victims have access to the justice system. The core rights of victims of crime and that need to be granted include:

- Right to be treated with respect and recognition
- Right to hearing, provision of evidence and right to receive information
- Right to protection from harm and access to assistance

⁴³Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), Article 13, para 1&2

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Identification protocol

I. Introduction

This part of the handbook is focusing on the practical aspect of identification of trafficked persons. In part "I." we raised the issue of lack of recognition of trafficked persons as such. One of the direct outcomes is that if a person is not recognised as a victim, he/she has not got a chance to access the system of justice, which is a fundamental human right. On the other hand, given that most investigations into, and prosecutions of, trafficking in persons are still reliant on a victim's evidence, the crime goes unrecognised and unpunished.

The following materials is not focusing on "what should be done", which is improving the identification of trafficked persons, but on "how it can be done". It is a simple material, which guides the readers through the three main stages of communication with victims of trafficking:

- Recognising the signs/indicators of trafficking
- Conducting the first interview, establishing whether a person had been trafficked or not
- Co-operation with the victim of trafficking on gathering information for a formal statement

We are fully aware that this is not an exhaustive and definitive material. Its ambition is rather to offer useful ideas based on the experiences of law enforcement officials dealing with trafficking in persons for many years. It offers several check-lists, which can be used as practical tools for those who are not in regular contact with victims of trafficking. And lastly, we hope it will be an impulse for a further debate on how to improve the practical work with and for trafficked persons.

II. Principles in practice

The existing codes of conduct for law enforcement agencies are extensively covering the general ethical principles of good policing.⁴⁴ When asked during the preparation of this material, the law enforcement officers experienced in dealing with trafficking cases established the following 5 key principles to obtain the best possible evidence:

Truthfulness
Respect
Competence
Pragmatism
Responsibility

For more detailed information about putting those particular values into practice, please read through this part or see section C, training material.

III. Chronology of identification, first contact and initial interview

It is a difficult task to establish whether or not one is dealing with a trafficking case. The law enforcement officers may be in contact with possible victims of trafficking through many ways.

On the one hand, the initial information or referral can come from a variety of sources, including NGOs, community-based organisations, faith-based organisations, trade unions, social workers, labour inspectors, embassies, tax inspectors, gang-masters, recruitment agencies, intermediaries or individuals, who were in contact with a possible victim of trafficking.

On the other hand, many trafficked people do not see themselves as 'victims' but rather as people who had bad luck. The police officer can meet people who will not see any intervention as a rescue from their situation but rather as an oppressive interference. (For example a young girl who is still under the spell of her 'lover boy', or a worker firmly believing that once he/she will re-pay the ever-increasing debt, he/she will be free and start to earn money for him/herself).

It is potentially counter-effective to list the industries where trafficking may occur. An attempt list, which is not exhaustive would include: the agricultural sector, sex industry, domestic work, sweat shops and the garment sector more generally, the construction sector, the food industry, and nursing.

The list of law enforcement agencies, which are likely to be in contact with a trafficked person should include the front-line policemen, immigration services, detention centres workers and specialised police units (for instance domestic violence ones). In many countries, special police units dealing with trafficking cases do exist. But this does not mean that the specialists will be necessarily the first professionals in contact with the possible victim. An effective system of referrals is important but the ability of the front-line law enforcement to identify a possible victim of trafficking is crucial.

The chronology of identification process can be roughly divided into three parts: First contact (which includes observations), Initial interview (which should help to ascertain whether a person had been trafficked) and First formal interview (which can result in victim's statement)

⁴⁴For more details see section I., page 13

III.i What is useful to take into account before the actual identification starts.

Before the actual interview, you should be aware of possible communication barriers. The understanding of what role can play gender, the immigration status, the fear of reprisals, cultural background and individual circumstances and reactions, is necessary for a successful first interview.

Gender:

Most women taken out of a night-club by a control team find themselves in a situation that makes them feel insecure and powerless. The lack of power and control over one's own situation is a general characteristic of the situation of a person trafficked into any sector. In case of women, this can be intensified by the weak social status they were holding in their home society, the fact that the crime committed against them may be considered in their home culture as their own shame and a crime against a family honour. Besides, as a result of their cultural background and previous experiences, many migrant women do not trust the police. That is why it is so important that the interview will pay attention to the gender specificity of needs and enable women to regain some control over their situation. In general terms—gender specific problems need gender specific responses.

Immigration status:

One of the major barriers immigrant crime victims face when seeking access to the criminal justice system is fear of detention and deportation. Not only that deportation can expose them to the risk of reprisals upon return, it may also mean permanent separation from family members, including children. In numerous countries where prostitution is illegal, women who were trafficked into the sex industry, justifiably fear forced medical check ups, forced resocialisation and /or imprisonment upon return. It also happens frequently that traffickers, owners, gang-masters and pimps discourage migrants from contacting the police by telling them that authorities are complicit, will harm them, arrest and detain them, and prevent them from ever returning home. These fears prevent many immigrant crime victims from seeking police protection, shelter, medical care and other social services. Recognition that the immigrant population is extremely vulnerable to victimisation because of the fear of deportation is a necessary precondition for a successful interview with a possible victim of trafficking.

Fear of reprisals:

As mentioned above, in order to discourage contact with authorities or others that can help, agents and employers may intimidate the trafficked people. The frequent punishment for not obeying the rules is physical, or it is financial penalisation, adding working hours or deprivation of 'privileges', such as time off, sleep, food, amenities. Abuse and penalties not only punish the alleged transgressor, but also serve as warnings to others.

It should not be assumed that once a person is no longer in his/her work situation or in the country of destination that he/she is free from reprisals. In most trafficking situations, agents know or can easily discover personal information about the victim, his/her home, family and friends. It is very common for agents and employers to use threats against one's family, especially the children, to manipulate and control the person.

Relation with the trafficker:

The relation between trafficked persons and the trafficker may be very complex: Trafficked persons may believe that after a period of abuse, they will eventually pay off a debt and be able to earn money for themselves. They may think that no one else but the trafficker is in a position to help them. They may believe that they are somewhat stupid and naïve for making a bad decision in the first place and that their situation could be worse. They may be afraid that they will be stigmatised or seen as "failures" if they return home empty-handed or be rejected by their families if they have been prostituted. Traffickers are also very smart in deftly changing their behaviours as fast as countries change their laws to criminalize trafficking. To side-step new laws, traffickers may become less physically aggressive by, for example [in case of a woman being trafficked], adopting a romantic attitude with the trafficked person, marrying the trafficked person to legalise their status or providing small sums of money to her.⁴⁵

⁴⁵Gender Promotion Programme, Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers, An information guide, Booklet No 6, Trafficking of Women and Girls, ILO, Geneva, 2003.

Cultural background:

Many migrants and members of minorities do not trust the police. They may perceive the law enforcement as a further threat rather than a potential help. As mentioned already, there are many good reasons for such a concern—the possible corruption and disrespectful attitudes of the law enforcement in their country of origin, the fear that they will be rejected or punished by their own community for bringing ‘troubles’ and shame. Many victims also fear that the law enforcement will not understand and respect their religion, culture and beliefs. For example, faith in local values and powers of voodoo, juju, marabou and witchdoctors is deeply ingrained in West African culture. Thousands of women and girls seeking transport to Europe -- sometimes with false promises of legal work -- undergo powerful voodoo rituals obliging them to obey the rules set up by the trafficker and make enough money to repay their ‘debts’, that can involve activities such as drinking blood from cuts and taking nail and hair clippings as totems. However, the power which the cultural practices have over individuals have often either been underestimated or ignored altogether by the law enforcement officers when interviewing the victim.

Individual circumstances and reactions:

The most important thing one does not know before starting the first interview is what the individual circumstances and experiences of the possible victim are. However, these will play a key role in his/her decision to talk with you or not. There are no givens in how trafficked people act and react. The circumstances in which the trafficked people find themselves and their reactions to it differ. You may face people with severe posttraumatic stress disorder, drug addicted people, some very collaborative, other numb and unwilling to communicate at all, aggressive or completely passive individuals. Remember that there is not a single, right or wrong way to respond to trafficking. We need an interview model -simple guidelines we can use for interviewing victims in a variety of individual circumstances and without a distinction of race, colour, sex, language, religion, nationality, political or other opinion, cultural beliefs or practices, ethnic and social origin and disability.

III.ii How it is useful to act during the initial interview

Based on the principals of Truthfulness, Respect, Competence, Pragmatism and Responsibility, the law enforcement officers consulted came with 4 tips for the police-officer/investigator, who is in contact with the (potential) victim:

Be professional and approachable:

Make sure that you are aware of the national legislation, professional guidelines and contacts, including shelters and NGOs for possible referral.

Think about the potential gender barriers. Police officers should always speak to victims in pairs. Preferably, one of the officers should be a female if the victim is a female. However, this depends on circumstances.

In case the person was previously a sex-worker in his/her home country. You should ask yourself the following questions:

What is your opinion about that?

How will you describe this in your police report?

If you include such an information, does that have any (negative) consequences for the victim?

Keep in mind that finding the truth is the main objective to focus on, not knowing all sexual experiences of the victim. Try to avoid any kind of stigmatisation and be unprejudiced.

Think in advance also about the potential cultural and language barriers. Co-operate with cultural mediators or experienced interpreters. Use teaching aids in different languages.

Show Respect :

Always treat the victim with respect and listen to what they have to say. Don't make judgements about what they have done, or their views.

Bear in mind the victim may have been through traumatic events, which may be traumatic for them to recount. Do you best to minimise any additional trauma or damage to the victim caused by this process.

Try to agree future actions and steps with the victim rather than impose.

Be clear:

Tell the victim the most important and relevant information quickly and make clear what is possible and what is not. Make particularly clear the role and the limitations of the police. Never make unrealistic or false promises.

Be aware of the safety implications:

Try to speak to the person when he/she is alone. Keep in mind what risk can the interview bring upon him/her. Do not hand over your business card to victims, suspects, their lawyers, etc. Law enforcement officer's business cards are being found in possession of traffickers all over the world.

Never stamp or mark the passport of the victim, as this can be a basis for a prosecution in his/her home country.

Be there for the victim

Step by step, make sure that the possible victims know what is happening, what is going to happen next, that he/she has a say over it and can regain a control of his/her situation.

The following check-list outlines 7 steps that should be taken in interviewing potential trafficked persons. It should be used in line with the training kit in section III, which gives a detailed explanation on each single step in the first interview.

III.iv First Contact

In such diverse circumstances and with so many actors involved, how can one assess whether or not it is a trafficking case? The enclosed list of indicators of trafficking is based on various police investigations on trafficking in persons and could play a role in identifying a trafficking case. Not all of given indicators are present or obvious in every case. Equally, each of these indicators on its own does not mean you are facing a trafficking case. It is the combination of indicators in the 5 sections, which can bring one to the conclusion that the person you are in contact with is a possible victim of trafficking in human beings.

If you can tick one and more statements in each section, it is reasonable to suspect that this might be a trafficking case.

Check list Number 1

a) Recruitment

A third party arranged the travel and work documents

The fees and/or interest rates charged by the recruiter(s) are excessive

The person is indebted and the family and/or loved ones back in the country of origin guaranteed repayment of the debts

False, inaccurate or misleading information was provided by the recruiter or by the employer to the worker

b) Personal documents and belongings

The person's passport and/or other travel or identity documents were confiscated

The person's personal belongings were confiscated

The person has false identity, work and/or travel documents

The person is prohibited from possessing and/ or transferring earnings and savings

c) Freedom of movement

The person is not allowed to move freely without a permission and/or control

The person is physically confined to his/her place of work or his/her location

The person could not choose his/her place of residence

The person is subjected to arbitrary or unlawful interference with his/her right to privacy, family, home etc.

d) Violence or threat of violence

The person faced psychological abuse including verbal abuse

The person shows fear or signs of depression

The person faced physical abuse, including beatings and forced drug consumption
(he/she has bruises or other signs of physical abuse)

Sexual abuse and/or harassment, including rape

The person faced treats of violence or abuse, including threats to others, for example family at home

e) Working conditions.

The terms of the employment contract or oral agreement are not respected by the employer or the person was forced to sign a new contract upon arrival in the receiving country

The person is forced to perform tasks for which he/she was not recruited and/or which are not stipulated in the employment contract

The person is working excessive or irregular hours. The person is given no or insufficient leisure time

The persons is exposed to occupational risks which compromise his/her health and safety; the worker is not provided with protective gear or equipment

The person is not provided with occupational health and safety information or training in his/her own language; the information and training provided are inadequate

The person is not paid for the work done or the payment is delayed

The person is underpaid comparing to wages promised or to the national minimum wage, where applicable

Significant deductions are made from the salary (i.e. to pay for placement fees or in the form of compulsory savings)

The person is denied benefits to which he/she is entitled (i.e. paid holiday, sick leave, maternity leave)

Medical care is not provided or is inadequate: health care information and services are inaccessible or not responsive to the person' s needs

Mandatory medical testing, pregnancy tests, forced abortion were performed on the person/ contraceptives were given by force

The person was dismissed without cause, notice and/or benefits

The person is accommodated in the same place where he/she works against his/her will

f) Living conditions

The person is denied the right to choose or change his/her place of residence

The person pays an excessive amount of money for substandard accommodation

The person is denied the right to freedom of thought, conscience and religion/expression.

The person is denied the freedom to seek and receive impartial information and ideas of all kinds.

Once the police officer establishes that he/she is in contact with a possible victim, it is necessary to arrange for an interview to ascertain whether there are reasonable grounds to believe that a person is a victim of trafficking. Once that has been established other rights and actions come into play namely;
To provide appropriate assistance measures, To ensure the safety of the trafficked person, and To begin to gather evidence for law enforcement purposes (but not necessarily at the first interview)

III.v Initial Interview

The major goal during the first interview is to ascertain whether there are reasonable grounds to believe that the person has been trafficked and obtain enough information from the possible victim of trafficking in order to be able to identify whether or not a crime had been committed. It is equally important is to provide the person interviewed with all relevant information that will enable them to obtain appropriate support and assistance measures, and to make an informed decision about what future actions they wish to take (including, if relevant, the availability of a refecation delay, and the possibility of assisting law enforcement. Finally, but most importantly, law enforcement officials must ascertain whether there are any immediate risks to the individuals, or others safety.

STEP 1 : Opening the interview

The intention is to establish a situation in which the potential victim is safe enough to express to tell his/her story. The opening of the interview can be divided into two steps:

- **Introduction**

- Who you are
- The position you hold
- That you are experienced in this kind of work
- That you have met people in a similar situation already more than once

- **Explain the here and now situation**

- Check the basic needs (pain, thirst, hunger, feelings of cold)
- Explain what exactly is happening here and now

The focus on the here and now situation should enable the victim to understand what is going on and the situation he/she is in at that moment. If that is unclear to the person, you will not be able to establish communication.

STEP 2: Giving information

Usually the best way to achieve successful opening is by making very clear what exactly you are doing and what he/she can expect:

- **Explain the purpose of the interview**

- Explain the purpose of the interview and what you are trying to achieve.
- Later the person needs to be able to consciously decide what further steps to take. (Report the crime or not, apply for the a permit to stay or not, stay here or return to home country).He/she should be informed about the options, which are likely to be available, at this early stage of the interview. Explain clearly how the statement will be used, if he/she will agree to make it, including who may have access to it

- **Explain the transfer to the police station if the interview takes place there**

- Explain the reasons and procedure promptly after arrival to the police station.
- Explore any steps that can be taken to assist privacy
- Explain (if relevant) that they are able at any time to postpone or terminate making the statement and leave the police station

- **Explain the structure and the proceedings of the interview**

- Explain how the interview will proceed step by step

- **Explain the role of an interpreter or cultural mediator if there is one**
 - What can be expected from an interpreter and what not?
 - If a cultural mediator or confidante co-operates, explain clearly to all involved what the roles are and what can be expected and what not.

STEP 3: Gathering information

This step is to determine whether you have sufficient reason to believe that the person is a victim of trafficking, and to determine what immediate support and assistance measures are needed

- **Look at the problematical situation.**
 - Let the person tell you and clarify his/her story by answering your questions
 - Look for inconsistencies or vagueness in the story and ask him/her to explain
 - See if you can detect a call for help or fear of reprisals.
- **Find out who the person interviewed is**
 - Let him/her tell you who he/she is, just a short history, and how he/she ended up here.
 - Pay attention to the person, express a true interest in the story. Make sure that you reflect the emotional state of the person and, if necessary, name the emotions, which you observe if you think it will stand in the way.
- **Find out how he/she got into this situation**
 - Pay attention to exact time and space indicators.
 - Try to know for each fact if there are potential witnesses.
- **Find out what the situation is now**
 - What situation is he/ she in at that moment and what will it look like in the next few days, especially now after talking to the police?
- **Find out what he/she wants and expects?**
 - What does he/she want at this moment?
 - Look again for a possible call for help and make it concrete
 - What are the person's worries now?
 - What worries him/her the most?
 - Let the person know what you can do to help and what you can't do and when exactly this can be done. Let it rest for a while if necessary, but make sure you explain the options.
- **Point out (possible signs of) trafficking**
 - Listen carefully to what the victim is telling you.
 - Use the guiding questions from the check- list, when you think it is appropriate.
 - Use the check list or create your own check-list of indicators, which will help you to gain an orientation in the case.

When asking the questions do consider:

- How much information do you need to gather at this stage?

Important: Pay attention to the person's reactions and emotions during this phase.

Telling you the story can make the person anxious, angry or aggressive. You can notice signs of posttraumatic stress disorder. Are you prepared to respond to that?

STEP 4: Updating the information

By giving information at this stage your goal is practically the same as when giving information in the earlier stages: to make sure that the possible victim is safe and to build a relationship of trust, so that the person and you can work together.

- **Explain to the person his/her actual situation (after checking)**
 - After you have heard the story, you should offer better and more precise information about the options available.
 - Briefly explain the situation if the person is irregular migrant and is at the police station.
 - Be honest about the consequences of being an irregular migrant, whether the person is co-operating or not.
- **Explain the relevant national policies**
 - Explain how exactly this policy affects him/her.
 - If relevant, explain at this stage that you suspect the person to be a victim of trafficking in persons and explain what it means.
- **Explain the permit to stay**
 - If there is a possibility to obtain a permit to stay in the country (short-term or otherwise), you are obliged to explain this possibility to the person.
 - Make sure that you explain the policy in plain and understandable words.
 - Do not forget to mention other possibilities and limitations.
- **Explain the criminal law**
 - Explain to him/her how the criminal law works in your country. Mention the possibilities, but also the consequences of criminal proceedings.
- **Explain the civil law**
 - Explain clearly that, apart from criminal proceedings, the person has other options, such as civil or humanitarian proceedings.

Explain risks, and other opportunities for assistance that may exist. Be honest and realistic as to what the options may involve

STEP 5: Joint deciding what further steps to take

Decide what further steps to take.

- **Look into the problematic situation and unused possibilities**
 - Clarify any possible inconsistencies and vagueness in his/her story. Look for points / things you can use.
 - Consider whether it is necessary to get more information now, or whether this can be obtained at a later stage. Do you have enough information for the initial assessment?
- **Develop the desired scenario**
 - Develop jointly the desired scenarios: application for a permit to stay, making a statement, going back to home country, etc...
 - Define realistic and achievable goals. (What are the elements? Which criminal offence was committed against him/her?)
 - Identify what is needed for a constructive change (Any additional information, help or service at this stage?).
- **Define a joint approach**
 - Discuss possibilities and the consequences strategies and let the person decide whether to report the crime or not, or whether to leave this decision to a later stage.
 - Repeat the information about all other available options (criminal or humanitarian procedure) and let the person decide whether he/she will use them.
 - Turn a strategy into a concrete plan
 - Agree a timeline, and next steps

After the exchange of information it is crucial to evaluate. The detective needs to go through the possibilities and consequences for the victim once more. If necessary, make a list of pros and cons so the victim can see clearly what the options are. Of course, it is best to let the victim rest and think about the options when a 'reflection delay' procedure is available.

STEP 6: Taking further steps

The main purpose is to ensure that the person is safe and his/her health, physical, mental and social needs are taken care of.

• Arrange a shelter

- Refugee or migrant's centre
- Starting the asylum procedure
- Custody (this should only be used in clearly defined narrow circumstances- remember you are dealing with a victim of crime)

• Arrange short term permit to stay

- Ask yourself who starts the procedure? Is this well-organised in your region?
- Fill in the necessary forms to support the victim's claim
- Enter the procedure and make contacts with relevant stakeholders
- Notify the public prosecutor/ where relevant

• Guarantee safety

- Discuss with the victim in detail how her/his safety can be guaranteed. The victim plays an important role in maintaining the safety.
- Explain any safety arrangements step by step.
- Arrange for the victim to be referred outside of the region in a case of a danger.
- Make it clear whether or not any personal information will be shared , if she/he reports the crime, and with who (chief of detectives, public prosecutor, etc.).
- Consider the safety of others - for example the victims close friends and family

• Arrange aid and assistance

- Is there an aid and assistance co-ordinator in your region?
- Can this person arrange for the victim to be placed inside or outside the region?
- When police matters are finished, will this co-ordinator pick up the victim and accompany the victim? (population, finances and public health)
- Will this co-ordinator arrange all necessary assistance and communicate with relevant bodies? (health, registration for benefits, personal documents, etc)
- A close co-operation between the services providers (NGOs) and police is recommendable.

STEP 7: Closing the first interview

Gain a feedback from the victim and make a clear agreement about the follow-up.

Before you will close the first interview, let the victim to give you a feedback:

• Ask what he/she thinks about the situation here and now?

- What emotional state is he/she in?
- Is there something what should have been said and still was not?

• Make an agreement about a ways how to stay in contact:

- How can she/he contact you and what can be expected from you?
- How can you contact him/her?

• Follow-up

- Set specific dates with her for follow-up interviews and phone calls,
- Agree next steps

• Make clear and specific agreements on any other relevant matter.

Check list Number 2

7 STEPS:

1. Opening:

Introduction

Explain the here and now situation

2. Giving information

Explain the purpose of the interview

Explain the transfer to the police station, if the interview takes place there

Explain the structure and the proceedings of the interview

Explain the role of an interpreter or cultural mediator if there is one

3. Gathering information

Look at the problematical situation

Know who the person interviewed is (broadly)

Know how she/he got into this situation

Know what is the situation now

Know what he/she does wants and expects and needs

Point out (possible signs of)trafficking

4. Updating the information

Explain to the person his/her actual situation , their rights and options

Explain the relevant national policies

Explain the permit to stay

Explain the criminal law

Explain the civil law

5. Joint deciding what further steps to take

Look into the problematical situation and unused possibilities

Develop the desired scenario

Define a joint approach

6. Taking further steps

Undertake and agree an assessment of needs and risks

Arrange a shelter

Do what you can to ensure the person's safety

Arrange short term permit to stay

Arrange aid and assistance

Arrange contact with local assistance service providers

7. Closing

Ask what he/she thinks about the situation here and now

Make an agreement about a ways how to stay in contact

Follow-up

Make clear and specific agreements on any other relevant matter.

III.vi Useful questions

The following questions, which can be useful to ask during the first contact and initial interview as well as later during the work on victim's statement, can be divided into 8 Key areas:

1. The situation before and during entering the country, or situation (if internal trafficking), and the persons expectations.
2. The working conditions.
3. The living conditions.
4. How the person got out of the situation (if he/she did) and what help is needed now.
5. Threats and coercion.
6. How the person concerned sees his/her situation.
7. What his/her plans and expectations are for the future. If assistance/help/service was provided, what according to the person concerned was and what was not useful for him/her?
8. Risk assessment. Immediate and long term risks and needs. How to meet them.

List of guiding questions, which are recommended to be used

Area 1

- Was the person abducted/forced/coerced to leave the place? If yes, how?
- What was the person thinking/expecting before leaving the place of origin?
- Was there any third party arranging their travel/documents/work? If yes, what was the relation based on? (professional agency/member of family/ friend/member of community, etc...)
- What were the promised arrangements? contract/owing money or favours/visa arrangements. Did the person fully understand what it means for him/her?
- Was his/her family & loved ones informed on the departure?
- How was the person trafficked? Was he/she taken out covertly? overtly? with what type of transport? who with?
- What was the person's immigration status upon arrival?
- Was any personal document/belonging taken away from him/her?
- Did the person pay the recruiter for the travel? If yes, how much?

Area 2

- What work was expected? Subcontracted or otherwise? What exactly did the respondent have to do?
- Were the terms of the contract/agreement respected? Was the respondent forced to sign a new contract?
- What was his/her relation with the employer? (was it a mixed personal/community relation?; was there any collusion between recruiters and employers?)
- What were the working conditions? (working hours, health and safety, transport, supervision etc.)
- Were the wages paid? How? How much? Was he/she underpaid?
- Could he/she have a free disposal of his/her earnings/belongings/documents?
- Was there any deduction to repay 'debts' from salaries? If yes, how much?
- Is his/her family dependent on his/her earnings?
- Was the right to free time, paid holiday, organising respected?
- Was the person provided with adequate information on health and safety and training in his/her own language?
- Does the person know other people facing the same situation or a similar one?

Area 3

- What accommodation was provided, if any? Housing conditions (heating, running water etc.)?
- Was the person allowed to choose/change the accommodation freely?
- Does the respondent have to pay an excessive amount for his/her accommodation?
- Was the person allowed to have social contacts?
- Does the person have control over his/her privacy and possessions?
- Was the person allowed to his/her right to free movement?
- Does the respondent have access to information? health care?

Area 4

- Was the respondent/respondent's relatives subject to any form of psychological, physical or sexual abuse (including beatings, verbal abuse, threats and forced drug consumption)?
- Were any forced medical testing, pregnancy test or forced abortion performed on the respondent? Were any contraceptives given by force?
- Was the person denied the right to freedom of thought, conscience and religion/repression?
- Why did the respondent remain in the situation/ feel unable to leave the situation

Area 5

- Did the person get out of the situation?
- If the person is still in the situation: does he/she want to get out? If yes, what prevents him/her to do so? If not, what makes him/her stay?
- If the person is out of the situation- how did that happen?
- Were social workers, any law enforcement institutions, advice centres or any other institution involved?
- Was a friend or a community member involved? Does the person maintain social contacts with other workers/ community members etc.?

Area 6

- Did the person receive any information/help so far?
- Did he/she understand the information? Who provided the information? Was it useful? If yes, why? If not, why? What was missing?
- Who provided the help? What kind of help was provided? Was it useful? If yes, why? If not, why? What would have helped better?
- What help is needed now?
- Did the person get into contact with any institution? Was it helpful?

Area 7

- What does the person think will happen now?
- Does he/she want to go back home? If yes- why? If not- why?
- If he/she will stay in the destination country, what will happen?
- If he/she will go back to the country of origin, what will happen?
- Does the person want to help with law enforcement. If so- how?

Area 8

- What are the immediate risks faced by the person, and or their close friends/ family
- What are the longer term risks
- How can these be met, in the short term, in the longer term. Will this change over time? Why and How?
- What are the immediate needs, eg shelter, clothing, money.
- What are the long term needs?

Once the police officer finishes the interview, it is important to take further action as agreed with the victim. The first step should be to arrange a referral. Please see section IV. for detailed information and contacts.

The next steps in terms of interaction between the victim and the law enforcement officer will be to collect information for a detailed statement from the victim, if the victim agrees to do so.

IV. First formal interview and Personal Statement of the victim

At the first formal interview with the victim it should be agreed whether and when the process of taking a statement can begin. The victim's statement plays an important role in the prosecution of the suspects of trafficking in persons. The statement should be balanced. It should contain not only the information about personal circumstances of the victim but also a description of the elements of the crime.

The decision when to take the statement is important. On one hand law enforcement officers will be anxious not to lose any opportunities for the investigation. On the other hand victims may be very traumatised, distrustful, and less able or willing to assist law enforcement on initial contact. Research on the use of the Article 18 system in Italy has shown that generally the longer victims are given to make a decision about whether to cooperate with law enforcement, the better the evidence they ultimately give.

Depending on national laws law enforcement should consult with victims, and service providers providing assistance to victims, as to when the best time to take a statement from the victim is. The statement can be taken in several sessions, as it may be a very demanding process for the victim. If national laws allow, it should be made clear that the victim is free to leave, postpone or terminate the interview at any time. Therefore the statement should be written in a chronological order. It is helpful to divide the statement into several paragraphs with standard titles. (see check list No 3). Each title reflects the content of the paragraph. Work in paragraphs is helpful when you want to add a new information into the text later on. A well-structured written statement helps the lawyer, judge and the public prosecutor to get a good insight into the crime and the role of the trafficker and the victim.

Bear in mind that recounting abuses may be traumatic for a victim, and the victim may be confused, not have all the information, be unwilling or unable to give information, or have a different interpretation of facts and what happened. There is a risk of subsequent contradictory information as victims become more secure or perceive issues differently. This does not necessarily mean a victim is unreliable or lying. Try to be clear in the initial statement or interview, but be aware of the difficulties the victim may be facing in giving a statement.

Forensic evidence

In many cases, physical violence is historic, but in cases where a physical assault occurred recently, an immediate examination should be considered, if it is necessary for the investigation.⁴⁶

The examination must be carried out with the consent of the victim which should be kept in a written form. Bear in mind a forensic examination is likely to be distressing to the victim. At all times treat the victim with respect and ensure their privacy. Only carry out a forensic examination when it is necessary for the purposes of the investigation.

A forensic examination is aimed to collect any evidence that may be useful in a court case—semen, blood, hair samples etc. and record any visible injuries.

The following elements are important to remember when dealing with the forensic examination:

The victim should be able to choose the gender of the forensic examiner.

The examiner should be experienced and accredited.

In case of a child victim, consent should be obtained prior to the examination from the child's parents or from other people with parental responsibilities of the child.

The forensic examination is not a medical examination for pregnancy or infections, which should be arranged separately.

Cross-contamination should be avoided.

All medical records should be kept anonymously

There should be a protocol and an examination kit for forensic medical examinations which covers:

- Photographs of any bruising;
- A form of recording injuries;
- Swabs and samples.

⁴⁶Kelly L., Vision, innovation and professionalism in policing violence against women and children, VIP Guide, Council of Europe, Strasbourg, 2003., pg 57

Before the interview

Check with the victim that they are willing to be interviewed, and they understand (if appropriate) that they can postpone or terminate the interview at any time

Explain to the victim the purpose of the interview, what will be done with the interview, who will have access to it, and any issues regarding privacy

Discuss with the victim any measures that can be taken to assist the victim- for example use of video interview, having a supporter (eg NGO worker) present during the interview

Revisit the risk assessment,

And discuss with the victim any changes to this that the statement will bring about. Agree any changes that will be needed.

Outline what will happen after the interview- the next steps in the process

Reliability

To avoid possible future doubts about the reliability of the statement, it is recommendable to:

- Use Standard checks and sentences in the statements:

"I feel physically well and mentally prepared to make a statement".

Victims of trafficking can suffer posttraumatic stress disorder, be tired, have any kind of disability or disease, or be addicted to narcotics. This sentence makes it clear that the police officer pays attention to the situation of the victim and the quality of the statement. Regular checks and recording of the state of the victim also avoids future doubts about the victim's reliability.

"I will do my best to answer all your questions, but if it should cause a damage to me I will not answer".

Victims of trafficking could be detained as illegal immigrants, for having false documents, committing a criminal offence etc. This should be discussed with the victim during the first interview. You may face a situation when the victim is also a possible suspect. In most of the EU member states, a suspect does not have to co-operate on his/her own prosecution.

"During the interview the victim's statement was translated by an interpreter. The interpreter is fluent both in the language of this statement and the mother tongue of the victim."

The victim must be interviewed in his/her own language.

Structure

Use a fixed structure that will enable good orientation in the case. The following check- list below will help you in structuring your report. The guiding questions on page 30 can be useful in obtaining sufficient details for the statement.

Check List Number 3

Socialization

This part of the statement should describe the victim's life until the moment of the interview. This paragraph in the statement reflects the background, life experience and personal circumstances of the victim. This "course of life" paragraph is essential to find out why someone ended up as a victim of exploitation. For further details see guiding questions

(Act of) Violence

Misleading

Threats

Penal codes of the different member states contain punishable acts like THB. The description of the THB offence sums up the criteria of the offence like act of violence, threats, misleading and coercion, forcing to perform sexual activities with others etc. In this paragraph of the statement, the elements of the crime must be clear. All the activities must be written down in order to get the information about the exploitation of the victim. This paragraph should clarify why he/she could not avoid/escape the exploitation. For further details see guiding questions on page 30.

Recruitment

A part of the trafficking offence is the "recruitment" (e.g. kidnapping, false promises or coercive recruiting with the intention to exploit someone for labour, services, forced marriage or performing forced sexual activities with others). It is necessary to know how the victim was approached or recruited in the country of origin. Questions about the wider network of recruiters should be a part of the paragraph, including possible information about a support the trafficker got from others (drivers, hotel- and club owners, suppliers of documents etc). For further details see guiding questions

Payment of resources

In this paragraph, the victim should explain how much he/she paid for the transport and travel documents, passport, the working place, or the working tools. These costs and associated interest rates can force the victim into a debt bondage situation. An element of coercion in this situation is often significant. For further details see guiding questions

The travel

In this paragraph, the victim should recollect the itinerary from the source and home country to the destination, day after day. This reveals the legal and illegal border crossings. It reflects also the day of arrival and the first day of working. This part of the statement brings an insight on the travel route belonging to the Modus Operandi of the traffickers. For further details see guiding questions

Arrival in the destination country

The victims should describe in detail the day of arrival including details about accommodation. An insight in the lodging reveals the living circumstances of the victim. At the same time this can clarify for the interviewer who was involved in the trafficking network in the destination place and how it had been organised. For further details see guiding questions

Start of the activities in forced prostitution

If you are working on a case of prostitution, the victim should explain accurately when she started being forced to work as a prostitute. Bear in mind that not all work in prostitution is trafficking; the victim may have initially agreed to be involved in some form of sex work or prostitution, but subsequently the nature of the conditions under which she worked changed so it became forced prostitution (for example, no choice about numbers of clients) She should also explain who is involved in these activities, try to state the safe addresses and possible other places where she has been. She should also provide information on her first earnings and describe, if possible, exact dates and times of working. Pay attention to the fact that she was probably raped too. For further details see guiding questions.

Sexual services

If you are working on a case dealing with prostitution, you should answer the following questions: What kind of sexual services was the victim obliged to do or forced into? Could he/she refuse some sexual services to the clients? What were the working hours? Answers to these questions should clarify the incidence of threats and coercion. For further details see guiding questions

Work relationships

In order to prove the exploitation, the relationship between the victim and the trafficker, gang-master, employer or pimp is important to explain (was it a mixed personal/community relation, was there any collusion between recruiters and employers, etc.). The victims should explain what exactly he/she had to do, whether the work was subcontracted or if she/he worked for one specific employer, and what were the working conditions. For further details see guiding questions.

Earnings

In this paragraph the victim explains whether he/she received any wages. He/she should provide information on whether any deductions were made from the salary, for example for food, accommodation, for the rent of the working place, rent of working tools and any other costs. It is important to record by whom and in what way the deductions were made.

In case of trafficking into sex industry--how many clients (average) he/she got on a day and how much money they paid for the sexual services, to whom the clients paid (to the victim, to the traffickers, intermediaries) This information provides an insight into the level the exploiter was involved and profiting from trafficking. Furthermore, this information will give the opportunity for the tax service to charge the exploiter. For further details see guiding questions.

Bear in mind that the victim maybe unclear as to details; money may not have been properly accounted for, and victims may not know how much they were paid, or how many clients they saw. Lack of precise detail may not mean that the victim is unreliable, but indeed maybe an indicator of trafficking.

Other criminal offences

In this paragraph, the victim should explain whether any violence, such as a physical abuse, beating, mistreatment, rape, hostage taking or imprisonment for debt, were used. For further details see guiding questions.

Remaining subjects

In this paragraph the victim should provide additional information which were not mentioned before, for example whether he/she knows any other victims, whether he/she remembers how many other victims were at the workplace, whether he/she noticed any minors in the work environment etc. For further details see guiding questions

End of the interview:

It is recommendable to finish the statement of the victim with the statement of the interpreter that he/she translated the victim's statement word by word.

Furthermore, the victim should confirm that he/she has given the statement on his/her own free will.

After the interview

Explain to the victim what will be done with the interview, and what the next steps are.

Agree next steps with the victim, including future contact

Update the needs and risk assessment

Summary:

Once the interview over, it is a good thing to write an accurate and elaborate statement based on the victim's explanation and what you as a police officer have done, heard and said.



Training kit

I. Introduction

The following part of the handbook is a training kit, which offers practical ideas for developing new skills in communication with trafficked persons.

The main goal of the training kit is to provide basic information and identification skills for those who are likely to be in contact with a trafficked person.

The kit is divided into two sections:

Part "A" is focusing on the issues of communication with trafficked people, with an opening session and 4 other sessions, and

Part "B" is putting those skills into a procedural frame for the interview.

By completing part A, one should:

- Gain the basics information of verbal and non-verbal communication with victims of trafficking
- Employ these information in practical exercise, and:
- Be able to send a clear message/provide clear information to a trafficked person
- Be able to listen actively
- Be able to reflect one's own and other people's behaviour

By completing part B, one should

- Gain the basic information about individual steps in the first interview with a possible trafficked person
- Employ these information in practice, and:
- Be able to provide the potential victims with all necessary information
- Be able to ask relevant question
- Be able to identify whether or not a person has been trafficked

opening session

A TEST YOUR KNOWLEDGE ABOUT TRAFFICKING

Purpose: The “Test Your Knowledge About Trafficking⁴⁷” session can be used to introduce a training on trafficking in persons. This session should be used to identify gaps in the participants’ general knowledge about trafficking in persons and as the basis to modify subsequent training sessions.

Steps:

1. The facilitator distributes copies of the **Handout A: Trafficking Awareness Survey** and allows participants 10 minutes to answer the questions.
2. The facilitator reviews the survey question by question, leading a discussion about the participants’ replies. Do not give the participants the correct answers until they have had a chance to debate with each other. See the answer sheet for information about answers.
3. The facilitator distributes copies of the **Handout B: Trafficking Awareness Answers** and allows participants time to check their replies against the answers and discuss the differences.
4. Summary and Closing:

The facilitator closes by asking each participant to share how they feel about exploring trafficking in a more in depth manner.

⁴⁷This exercise uses material developed by the Minnesota Advocates for Human Rights, Training materials, made available on UNIFEM website, Stop violence against women, 2003
http://www.stopvaw.org/Trafficking__Training_Materials.html

HANDOUT A

TRAFFICKING AWARENESS SURVEY

1. When I think of the term 'trafficking in persons':

- I'm not sure what it is.
- The definition is confusing and unclear to me.
- I'm not sure about the difference between trafficking and forced migration.
- I think of trafficking in persons as synonymous with smuggling.
- I understand the act it defines.

2. Trafficking in persons can involve which of the following (check all that apply):

- Voluntary migration with deception or coercion
- Exploitation
- Abuse of power or of a position of vulnerability
- Transfer or reception of people by force or threat
- Crossing of international borders
- Consent to be brought across the border
- Movement within borders
- Voluntary labor migration for sex work
- Forced labor/forced prostitution
- Debt bondage (i.e. a person is forced to work as a means of "repayment" of a loan, or fees for services. Generally, the fee is increased, making it impossible to pay, or the value of the labor exceeds the original debt.)
- Restriction of personal freedom
- Confiscation of legal identity
- Involuntary servitude or slavery-like conditions
- Violence or threat of violence

3. The "typical" recruiter is (check all that apply):

- Female
- Male
- Both, male and female
- Acquaintance
- Stranger
- Friend
- Partner
- Neighbor/family friend
- Relative
- Spouse
- Child
- Private companies

4. People are recruited into trafficking through which of the following methods (check all that apply):

- Kidnapping
- False job promise (e.g. through advertisements in the newspapers)
- False invitation abroad
- False travel arrangements
- False promise of marriage
- Genuine promise of legal employment opportunities

5. Once victims find themselves in the middle of the trafficking process (check all that apply):

- It is easy to control it and escape when they choose to do so.
- They experience lack of control over movement.
- They are treated kindly and with respect.
- Their personal belongings, passport and money are seized.
- In most cases, they experience mental abuse.
- A lot of female victims are sexually abused by their traffickers/exploiters or the traffickers/exploiters' friends.
- They are often forced to live in shared accommodations with poor hygienic conditions and limited access to food.
- They are often kept locked in their accommodations during the day and are forced into prostitution at night.
- They are never forced to have unprotected sex with clients.
- They are almost never physically abused.

True or false (Circle one):

- T F 1. Trafficked persons often make a conscious decision to go abroad hoping to find a better life.
- T F 2. Trafficked women are sometimes partly or fully aware of the possibility of being involved in commercial sex work.
- T F 3. Trafficked people expect to be held captive for a while and do not assume they will be choosing their working conditions.
- T F 4. Trafficked persons most often want to go abroad to find a job.
- T F 5. Trafficked persons receive good payments for their services and enjoy generous benefits.
- T F 6. Most trafficked women receive medical care on an emergency basis only, especially when the symptoms could affect their "performance."
- T F 7. Trafficked women are mostly young, naive and uneducated women from rural areas.
- T F 8. Trafficked people may accept some abusive conditions in the belief that eventually the conditions will improve and they will be able to change their situation and earn good money.

HANDOUT B

TRAFFICKING AWARENESS ANSWERS

1. This question is intended to help people think about their knowledge of trafficking in persons. The only response that would need to be clarified for the people who answered it is that which states that “trafficking in persons is synonymous with smuggling.” This is a false idea. In reality, there is a fundamental difference between smuggling and trafficking. Smuggling is voluntary labor migration through illegal facilitation and involves taking a person across a border for a fee; whereas trafficking involves movement of a person across or within borders, forced or voluntary with deception and coercion, into a situation of forced labor, servitude or slavery-like practices.
2. The only answer that is not part of the definition of trafficking is “voluntary labor migration for sex work.” All the others can constitute, or are part of, trafficking in persons.
3. The only answer that does not apply in this case is “child.”
4. The only answer that does not apply here is “genuine promise of legal employment opportunities.” Recruitment for trafficking through genuine promise of opportunities is a contradiction in terms. Recruitment of persons for trafficking always involves deception or coercion.
5. The answers that do not apply are:
 - It is easy to control it and escape it when they choose to do so.
 - It is extremely difficult for the trafficked victims to have control over the trafficking process. Usually, their personal belongings/documents and money are seized and the victims are under constant psychological and physical pressure and abuse. They are also usually completely dependent on their traffickers.
 - They are treated kindly and with respect.
 - The victims’ human rights are violated and they are deprived of personal freedoms.
 - They are never forced to have unprotected sex with clients.
 - Many female victims are forced into unprotected sex. Medical care is normally given on an emergency basis only.
 - They are almost never physically abused.
 - Trafficked people are commonly physically abused. A number of abuses are perpetrated during the trafficking process. Those abuses include work-related injuries, physical harm and death on the job, related to physical and sexual violence.

True or False

- 1. True.** Unemployment and poverty in the victims' home countries and higher income and living standards in the destination countries often act as powerful factors in a victim's decision to work abroad. Tempting offers or seemingly legitimate job advertisements then lead the victim into the hands of the traffickers.
- 2. True.** According to the IOM report, 22.6% of the assisted trafficked victims were partially or fully aware of the possibility of being involved in commercial sex work.
- 3. False.** None of them would ever expect to be held as slaves and all of the victims assumed they would be choosing their working conditions.
- 4. True.** Most of the international migration is labour migration. (see I. iv)
- 5. False.** As the IOM report states, trafficked victims usually receive neither profits, nor other work-related benefits. Only 4% of the assisted women reported receiving regular payment for their work. Few of the women receive modest occasional allowances (49.1%), which often they generally had to spend to pay for their rent, food and clothes.
- 6. True.** Medical care is normally given to the trafficked victims on an emergency basis only.
- 7. False.** According to the IOM report cited above, assisted victims came from all age groups, 52.17% of them come from urban areas, and some of them were university graduate.
- 8. True.** Many trafficked persons may not identify themselves as trafficked or victims, but as having made a bad deal, or believe that their conditions will improve.

session 1

A HOW TO BUILD A RELATIONSHIP: VALUES IN PRACTICE

Purpose:

To introduce a training on trafficking in persons. This session is intended to be a facilitated debate on ethical policing and trafficking in persons.

Steps:

1. the facilitator writes the 5 core values : Truthfulness – Respect – Competence – Pragmatism- Responsibility – on a flipchart and asks participants to
 - A) explain what they mean to them as law enforcement officers
 - B) suggest how they are manifested in practice
2. The facilitator records the answers on the flipchart and allows participants time to reflect on the replies, debate with each other and discuss the differences.
3. Summary and Closing. The facilitator closes the session by summarising the key points on which the group reached consensus. These may include but are not limited to:

What is truthfulness?

- Avoiding overemphasising one's role
- Being spontaneous
- Avoiding an aggressive or defensive attitude.
- Being open ("What you see is what you get. No hidden agenda")

What does this mean in practice for law enforcement officials?

- being able to tell others directly and frankly how he/she feels at that moment
- being able to communicate without distorting one's own message
- being able to listen to others without distorting their message
- being able to be spontaneous with others and not having to follow the usual and planned-out strategies
- being able to immediately respond to the needs or emotional state of others

instead of waiting for the right moment or the right words

- being able to show one's own vulnerability and, in general, showing what moves one emotionally
- being able to live in today's world and communicate about it
- striving for mutual dependency instead of one-sided dependency or even independency in the relationship with victims
- being concrete in conversations

What is respect?

- Seeing yourself and others as being equally human
- Appreciating people simply because they are human
- Acting with consideration for the rights, values, beliefs and property of others

What does this mean in practice for law enforcement official?

- appreciating diversity
- treating each victim as an individual
- avoiding criticising victims (“You are there to help them and investigate, not to judge them”)
- making victims understand that you are there to help them
- being there for victims during and after the interviews
- departing from the idea that victims must behave in certain way, be of good will and want to co-operate
- being sympathetic towards victims within reasonable limits
- keeping the victims’ interests in mind
- helping the victims to deal with their pain

Avoiding making judgements about victims behaviour, views or opinions

What is Competence?

- One’s ability to make informed choices
- One’s ability to change a situation.
- Skill—i.e.required ability to perform tasks.

What does this mean in practice for law enforcement officials?

- becoming professional in interviewing victims (“Gain more in-depth knowledge about your work and the victims you are dealing with”)
- keeping learning (“The learning process does not end with this training”)
- being what you want the others to be (“If you want the victim to be frank and straightforward with you, be like that yourself”.)
- being assertive
- being able to self-reflect and make decision for yourself. (“You should know whether you are competent or incompetent by looking at the results of your work.”)

Being honest and clear about process, what can and cant be provided.

What is Pragmatism?

- Seeing value in practical results
- Looking for the direct relation to life and action
- Planning one’s own actions to make a real practical difference
- Considering all elements of a given situation

What does this mean in practice for law enforcement officials?

- staying focused on the every- day reality
- remaining flexible (“Go along with the victim as much as possible and adapt the process to the victim’s needs”)
- showing readiness to take action (“Be prepared to act as you promised”)
- doing what is necessary
- being and staying realistic

What is responsibility?

- Being answerable for one’s own actions.

What does this mean in practice for law enforcement officials?

- understanding that both the officer and the victim can bring about changes if they really want to
- helping victims to discover and use their own potential
- avoiding overestimation of the psychological vulnerability of victims
- helping victims to bring about changes to improve their situation

session 2

A COMMUNICATION – INTRODUCTION

Purpose:

To introduce communication as a complex process. Whether the officer is following identification guidelines or not, it is the face to face communication, which will encourage or discourage the potential victim to co-operate with him/her.

Does this somewhere need to say communication is a 2 way street- ie not just police giving information but also listening to a victim and receiving information.

Steps:

1. The facilitator explains why the introduction into a communication is crucial not only for law enforcement officials but for all professionals dealing with victims of crime.
2. The facilitator uses a variety of training techniques, depending on his/her capacity, including role plays and group feedback (see example). Use of a variety of equipment including video recorder, video screening, voice recorder etc is recommended.
3. Summary and Closing:
The facilitator closes the session by summarising the basic lesson's message, which should at minimum include the following.

What is Communication?

- Communication is defined as the interchange of thoughts, opinions and information through shared symbols: language, words, phrases. Four facets compose communication:

Sender
Receiver
Information
Behaviour

- Communication can be described in a simple model: Sender ----- Receiver

The sender is the person trying to communicate a message

The receiver is the person at whom the message is directed

A message is sent to convey information

Information is meant to change behaviour

Communication is both verbal and non-verbal

- Verbal communication means using words. Non-verbal communication-or body language- includes one's facial expressions, figure/posture, focus of the eyes, personal territory, tone of the voice etc. Both are used to deliver a message.
- Usually it is easier to train and control verbal expressions than non-verbal behaviour. In general terms, verbal behaviour gives you more choices than non-verbal behaviour. You can choose to speak or not, decide on topics and select what you want to talk about and what not.
- Non-verbal behaviour offers you less or no choices at all. Most of the time you are not even aware of the non-verbal signs that you are sending to others. Non-verbal behaviour does not necessarily match to verbal behaviour. Sometimes the non-verbal negates or exceeds the verbal. Therefore, sent messages can be completely misunderstood.

Human communication evolves around 3 basic principles:

- **It is impossible NOT to communicate.**
- Each type of behaviour conveys an information. Even silence is a message. All it says is 'I don't want to deal with you'. It is impossible NOT to send a message when you are trying to avoid communication.
- Communication does not begin with words, it starts from the moment two people interact in one or another way. Research results are showing that any message is received as a mixture of verbal and non-verbal signals:
Words are 7% of a message.
Voice is 38% of a message
Non-verbal expression is 55% of a message.

Note: Non-verbal communication speaks louder than words.

- **Each form of communication has 2 aspects:** the content and the relation. Next the content of the message itself, the way it is sent also plays a major role. It says all about the relation between the sender and the recipient.
- The content aspect indicates **what** we are saying and how is the recipient supposed to interpret the message: as a joke, as an order or a request, etc.
- However, **how** we are saying things often determines how the recipient interprets the message. We usually do not express verbally how we see the other person; instead we use non-verbal signs, such as posture, gestures, volume of voice, tone of voice, intonation and facial expressions. Many breakdowns in human communication occur, because people are not aware of the relation aspects of communication.

The relation aspect consists of 3 elements:

- How the sender of the message does see himself / herself.
- How the sender of the message does see the other person.
- How the sender of the message sees his / her relation towards that other person.

Note:

Arguments often start at the content level, while the conflict is often caused by the relation sender/receiver.

- **Communication is always symmetrical or complementary.**

The way 2 people approach each other and attitudes are means of exchanging messages.

- In a complementary relation, the position of one person is dominant, while the other one submissive. The complementary communication can be successful only when the communicating people reach an agreement about the nature of the relation between them. If there is no agreement, the communication will be clashing and conflicting.
- Symmetrical relation is equality- based relationship where a type of behaviour is answered by the same type of behaviour.

Practical exercise: How do you send your message SHARE MODEL (Role-play, feedback from actors, feedback from group).

One person will play the role of the law enforcement official and another one that of the worker.

1. Theme: Group of workers is exiting a van. They seem to be very silent but exhausted and stressed out. Approach one and introduce yourself. Your role is to give clear information about who you are and why you are approaching the worker.

SHARE model:

State the main point of your message

Highlight the other important points

Assure the receiver's understanding

React to how receiver responds

Emphasise/summarise your message/main point

2. The facilitator will use a flipchart to record and summarise:

- a) A feedback from the 'worker from the van' first. How did he/she feel about the officer's body language? What did he/she think about the information provided? What was good and what was not?
- b) A feedback from the 'law enforcement official'. How did she/he feel? What did she/he think? What was difficult and what was not?

3. Open the floor to the rest of the group for a feedback: What worked? What didn't?

session 3

A COMMUNICATION SKILLS

Purpose:

To introduce basic communication skills as a tool for a successful interview with a potential victim of trafficking.
To be trained on the skills in two practical exercises.

Steps:

1. The facilitator explains on what type of professional skills the session will focus, identifies how many breaks will be needed and uses the practical exercises to keep the involvement of all group members.
2. The facilitator uses a variety of training techniques, depending on his/her capacity, including role plays and group feedback (see example). Use of variety of equipment including video recorder, video screening, voice recorder etc is recommended.
3. Summary and Closing:
The facilitator closes by summarising the basic lesson's message, which should at minimum include

Communicating skills = Being able to be there for the victim

Paying attention, listening actively, Understanding non-verbal communication, Showing social emotional presence

- Paying attention means that you are prepared and focused on the client/victim:
- Try to organise the space and time: Eliminate distractions in the place of interview, so that you can focus on the person. Set aside the time to listen so that you don't feel rushed.
- Use relevant communication micro-skills: Establish an appropriate eye contact. Lack of an eye contact can make you appear not interested in or not trustworthy. However, staring makes other people uncomfortable. Use your body for a contact and expression; show openness (no crossed arms, legs), interest and commitment (leaning towards the other person occasionally, while respecting his/her territory), keeping your body straight but relaxed.

Note. The above mentioned micro skills are particularly related to Western culture. Therefore, these skills are not necessarily guidelines to be used in a multicultural society. Knowledge of other cultures is needed to adapt these micro skills.

Active listening

Active listening is a complex mixture of listening to and understanding verbal messages and non-verbal behaviour; understanding the context of a victim's situation and having a good eye for the reality.

- Listening to and understanding **verbal messages**

Even a problematic situation can be accessible to the officer, when he or she gets the full description of experiences, behaviour, emotions and moods. It is the interviewer's responsibility to make sure that the victim's situation is clear to him/her.

The type of question posed determines the type of answer:

- Closed question: Limits the answer to yes or no
- Open questions: Allows total freedom of answering
- Direct question: Limit answers to brief fact statements
- Probing question: Follow up other questions to solicit additional information
- Hypothetical question: Present a theoretical situation to which the receiver responds

- Listening to victims and **understanding the context**

There is more to people than just the sum of their verbal and non-verbal messages.

The essential part of listening to clients / victims is taking into account where they are coming from and the context in which they live in.

- Listening with a **good eye for the reality**

The way victims perceive and feel about themselves, others and the world around them is real and has to be understood. However, their perceptions can be sometimes distorted. Listening to victims with a good eye for reality also includes finding inconsistencies, twists and discords that could be part of a victim's reality.

- The drawbacks to listening to victims / clients:
- Inadequate listening (Being easily distracted).
- Judgmental listening (Judging the value of what the other person is saying to you while you have not heard the whole story yet. Judging in terms of good and bad, right or wrong, acceptable or unacceptable, relevant or irrelevant, etc.).
- Filtered listening (What the victim is saying is distorted due to personal socialisation).
- Misperception through labelling (Mistaking a theory for the reality. Pigeonholing).
- Listening to the facts instead of the victim (Listening is dominated by the urge to find facts or elements that can be used in further investigation).
- Inner rehearsal (Common problem for the beginners: worrying about how to answer the victim's questions. Inner thoughts distract you from the victim's story and you stop listening).
- Emotional over-involvement (Having too much sympathy and compassion for the victim can cause distortion).
- Interrupting the victim (Interrupting makes you stop listening. People who interrupt others often say the things they rehearsed).

Understanding the non-verbal communication

- The human face and body send out a substantial amount of messages. Sometimes, the victim's facial expressions, the tone of her voice and her physiological responses tell you more than what he/she can put into words. Equally, your body language sends out signals, you have to pay attention to that. (e.g.: "I feel that my muscles are tensed while I am talking to a person. That person makes me feel uneasy. What is causing this reaction? What message does my body send to that person?"). The important skill is to be able to understand

the body language and its messages without overestimating or underestimating its importance.

The following list is an overview of key aspects of non-verbal behaviour:

- Figure, which includes: posture, gestures, demeanour
- Facial expressions, which include: smile or lack thereof, frowning, raised eyebrow, compressed lips, tilt of the head
- Use of voice, which include: timbre, pitch, volume, intensity, intonation, intervals between words, emphasis, silence, speaking in smooth or interrupted sentences
- Noticeable autonomous physiological responses, which include: accelerated breathing, emerging red blotches on the face, flushing, blushing, turning pale, dilating pupils
- Physical elements, which include: good or bad condition, size, weight, complexion
- General appearance, which includes: external care, clothes and accessories

Non-verbal behaviour as a form of accentuation:

Apart from the fact that non-verbal behaviour is a source of communication in itself, this type of behaviour – e.g. someone's facial expression, conduct and tone of voice - often accentuates verbal messages. One could compare it with punctuation marks, such as full stops, question marks, exclamation marks and the underlining of words in written language:

- Confirmation or recapitulation such as: brightening of the eyes, leaning forward, nodding, etc.
- Denial or confusion, such as trembling of the upper lip, sounding hesitant, etc.
- Confirmation or emphasis, such as covering the eyes with one's hands, collapsing in one's chair etc.
- Control or regulation, such as focusing on a single person when you are talking to a group of people, etc.

Note: The above mentioned micro skills are particularly related to Western culture. Therefore, these skills are not necessarily guidelines to be used in a multicultural society. Knowledge of other cultures is needed to adapt these micro skills.

non-verbal behaviour is a communication channel!

Social emotional presence

Social emotional presence is the quality of your presence as a whole for the victim.

Both your verbal and non-verbal behaviour need to clearly show your readiness to co-operate with the victim. Verbal and non-verbal behaviour need to be in balance. You should mean what you say and vice versa.

Practical exercise: How actively do you listen? FOCUS model

(Role-play, feedback from actors, feedback from group).

Step 1: Theme

Option a): You are dealing with a person, who was probably trafficked and is working in a food processing factory. You need to know whether or not the person is paid any wages, how much they are, whether this is what he/she was originally promised and whether or not any debt repayment is involved.

Option b): You are dealing with a woman, who was probably trafficked into sex industry. You need to know how much money she was earning for the trafficker, how many clients were served each day and whether she could keep any earnings.

Option c): You are dealing with a person, who was possibly trafficked and he/she mentioned threat of reprisals for talking to police. You need to know what does that exactly mean and whether he/she feels safe.

Step 2: after 5 minutes for preparation 10 minutes role-play using following model

FOCUS model

Focus the discussion on the specific information you need

Open-end questions to expand the discussion

Close end questions to get specifics

Use active listening and body language skills to understand what you are hearing

Summarise and close the discussion

Step 3: The facilitator will use a flipchart to record and summarise:

- c) A feedback from the 'victim' first. How did she/he feel about the conversation? What did she/he think about the questions? What was good and what was not?
- d) A feedback from the 'law enforcement official'. How did she/he feel? What did she/he think? What was difficult and what was not?

Step 4: The facilitator will open the floor to the rest of the group for a feedback: What worked? What didn't?

Communicating skills = Being able to understand a victim's behaviour

To be able to understand a victim's behaviour, you have to be professional, self-reflecting and respecting the victim's, while addressing his/her behaviour and be able to answer the following questions:

1. What kind of behaviour is he or she showing? What do I want to achieve?
2. What do I have to offer?

You also need to be aware of the influence strategy, and of the 7 key behavioural communication patterns.

- **Influence strategy** at the relationship level:

The so-called 'Leary's Rose' is a working model for mapping a relationship and interactions between people, which offers a way to understand and influence other people's behaviour. It focuses on the process, not the content, of communication. It is a dynamic model of behaviour and communication based on the principle that human communication and behaviour patterns are constantly moving /operating in two dimensions:

- **Complementary** (above-below) behavioural modes

The 'above' behavioural mode: active, initiative, influencing, dominating
The 'below' behavioural mode: passive, dependent, submissive, compliant

In complementary relation/communication the 'above' behaviour is answered by 'below' behavioural patterns and vice versa. In other words, aggressive behaviour is answered by defensive behaviour and vice versa, leading behaviour is answered by compliant or passive behaviour, etc.

- **Symmetrical** (together-opposite) behavioural modes:

The 'together' behavioural mode: pleasant, sympathetic, co-operative
The 'opposite' behavioural mode: unpleasant, distrustful, intolerant

In a symmetrical communication the 'together' behaviour is answered by 'together' behaviour and 'opposite' behaviour is answered by 'opposite' behaviour.
The 'together' behavioural mode is the one that you should reach.

'behaviour is answered with behaviour'

- **7 Key behavioural patterns and reactions**, which to reflect and self-reflect for a successful interview with a victim:

- **Leading**: organising things, taking initiatives.

Sometimes also: authoritative.

Verbal: giving advice, influencing, convincing, arranging, demonstrating, etc.

Non verbal: energetic, leaning forward, loud voice.

Answering behaviour: obedience, dependency, or competition.

- **Supportive**: supporting, encouraging.

Sometimes also: interfering.

Verbal: encouraging, serving, co-operating, compromising, understanding.

Non verbal: friendly looking, making a lot of eye contacts, touching, laughing.

Answering behaviour: adjustment, acceptance or irritation.

- **Adjusting**: friendly, indulgent, co-operative.

Sometimes also: over-friendly.

Verbal: agreeing, flattering, admiring, defending, respectful to superiors.

Non verbal: looking polite, smiling a lot, nodding, serving.

Answering behaviour: supportiveness, acceptance or irritation.

- **Dependent**: passive, expecting help from others.

Sometimes also: helpless, anxious.

Verbal: asking for advice, presenting problems to someone, asking for approval.

Non verbal: speaking softly, sighing, looking away.

Answering behaviour: leading, helping or rejection.

- **Distrustful**: distant, suspicious, individualistic.

Sometimes also: shy, insecure.

Verbal: self-reproaching, pulling oneself down, complaining, nagging, non-talkative.

Non verbal: looking away, not sitting straight (crouching), looking sad, sobbing, sitting quietly in the background / corner, showing rigid behaviour.

Answering behaviour: keeping distance, aggression, disapproval or help.

- **Rebellious:** distrustful, protesting.

Sometimes also: cynical, bitter.

Verbal: asking critical questions, pretending disbelief, being cynical, provoking conflict, rejecting or making someone get angry.

Non verbal: looking sharp and angry, being moody, shaking your head when someone else is talking.

Answering behaviour: aggression, irritation, authoritative behaviour, or help.

- **Aggressive:** hostile, negative.

Sometimes also: fighting.

Verbal: punishing, threatening, scaring others, laughing at others, humiliating, calling names.

Non verbal: speaking loudly, screaming, hitting, looking menacing, clenching fists.

Answering behaviour: aggression, authoritative behaviour or fear, submissiveness.

- **Competitive:** full of self-confidence, being a ringleader.

Sometimes also: arrogant, boastful.

Verbal: commanding, ignoring others, criticising, putting other leaders down, making sharp remarks.

Non verbal: arrogant, sniffing, posturing proudly, having a severe look.

Answering behaviour: competition, aggression or submission, adoration.

NB. The above mentioned micro skills are particularly related to Western culture. Therefore, these skills are not necessarily guidelines to be used in a multicultural society. Knowledge of other cultures is needed to adapt these micro skills.

Practical exercise: How do you reflect and influence other people's behaviour? STATE model

(Role-play, feedback from actors, feedback from group).

Step 1: Theme

Option a): You are dealing with a person who has probably been trafficked. He/she is stressed out, seems to be tired and is distrustful, hostile and aggressive to you. He/she keeps repeating " I told you everything. You cannot understand. You know nothing". You need to know whether a family member was involved in the trafficking. Your role is to address the behaviour in a constructive way and get back to your original question.

Option b): You are dealing with a person who is probably a victim of trafficking. It is apparently a friendly person, who is very approachable, smiles and nods to most of your questions. But he/she is obviously telling lies. You need to know whether any debts are involved in the case. Your role is to address the behaviour in a constructive way and get back to your original question.

Option c): You are dealing with a person who gives very uncertain answers, offers three different versions of one event, is contradicting him/herself and in general gives an impression of shyness and insecurity. You need to know whether any act of physical violence occurred. Your role is to address the behaviour in a constructive way and get back to your original question.

Step 2: after 5 minutes for preparation 10 minutes role-play using following model

STATE model:

State the constructive purpose of your feedback

Tell specifically what you have observed

Address and describe your reactions

Tender specific suggestions how to deal with it

Express your support and respect for the person

Step 3: The facilitator will use a flipchart to record and summarise:

- e) A feedback from the 'victim' first. How did she/he feel about the 'officers' behaviour? What did she/he think about the information provided? What was good and what was not?
- f) A feedback from the 'law enforcement official'. How did she/he feel? What did she/he think? What was difficult and what was not?

Step 4: The facilitator will open the floor to the rest of the group for a feedback: What worked? What didn't?

session 4

A CULTURAL ASPECTS OF COMMUNICATION

Purpose:

To raise and discuss the issue of cultural aspect of communication and its impact on communication with victims of trafficking in persons.

Steps:

1. The facilitator invites the members of the working group to share their views and experiences with multicultural communication. The facilitator uses a flipchart to record the 'successful' and 'unsuccessful' practices.
2. The facilitator introduces the two basic theories of cultural aspects of communication and links them with the experiences shared by the group members, while encouraging further debate.
3. Summary and Closing:
The facilitator closes by summarising the tips and ideas, which the group members identified as useful and successful.

Theory of cultural differences (Hofstede)

Just when you think that you have thought of everything and are prepared for the interview, you are facing someone with a completely different cultural background. Despite your skills and all that has been stated and discussed so far, you might not be able to start a conversation with, for instance, a Chinese, a Ghanaian, an American or a victim of any other nationality. Even within a same country, you have different structural patterns according to ethnic groups or cast. To reach victims that are from a different cultural background, understanding of differences in cultural backgrounds is essential.

One possible way of approaching cultural differences is to be aware of the fact both public and private life differ in individual cultures and societies:

The differences between societies can be assessed through the following aspects of culture: power distance, individualism, masculinity/femininity, and avoidance of uncertainty.

• Power distance

This aspect focuses on the degree a culture accepts and expects inequality in power. In the case of a high power distance, inequality in power between people is both expected and desired. In case of low power- distance culture, inequality in power between people should be minimised.

To understand this distinction between high and low power distance, ask yourself this questions:

- Do I expect in everyday discussions, any behaviour which differentiate me from the person I am talking to in terms of power?

• Individualism (versus collectivism)

This aspect focuses on the degree to which a culture expects individuals to be able to take care of themselves or

fellow members of their group. Western culture values individual's identity. Subsequently, a failure reinforces one's own personal feelings of guilt and loss of self respect, whereas in collectivism it reinforces feelings of guilt and loss of face not only for the individual concerned but also for his/her wider group.

To understand this distinction, ask yourself the following questions:

- Do I think that the way I live reflects on qualities of my family members and wider community members? Do I agree that "I am the only one responsible for my achievements and failures?"

• **Masculinity/ femininity** (versus equality)

Masculinity focuses on the degree to which a culture accepts and expects gender differentiation: the traditional masculine and feminine role model and behaviour.

A masculine culture reinforces the traditional masculine role model of male achievement, control and power. Men are supposed to be assertive, ambitious and tough. In such a culture the women are expected to fulfil the feminine role model of taking care of others and their environment and being modest.

To understand this distinction between masculine/feminine and equal, ask yourself these questions:

- Do I perform any tasks simply because it is a part of women's/ men's duty? Do I expect people of opposite sex behave in any specific way?

• **Uncertainty avoidance**

Uncertainty avoidance focuses on the level of tolerance for uncertainty and ambiguity, such as unstructured situations, within a culture, and the degree it tries to reduce the amount of uncertainty by instituting laws, rules and regulations. High uncertainty avoidance reinforces a rule-oriented culture in an effort to control the amount of uncertainty, even though it is a basic fact of life. Low uncertainty avoidance reinforces a culture that considers uncertainty and ambiguity to be a basic fact of life and more readily accepts change, and takes more and greater risks.

To understand this distinction between high-context and low-context communication, ask yourself these questions:

- Do I tend to "let my words speak for themselves," or prefer to be less direct, relying on what is implied by my communication? Do I prefer indirect messages from others?

Example of how importance of those factors varies in different cultures:

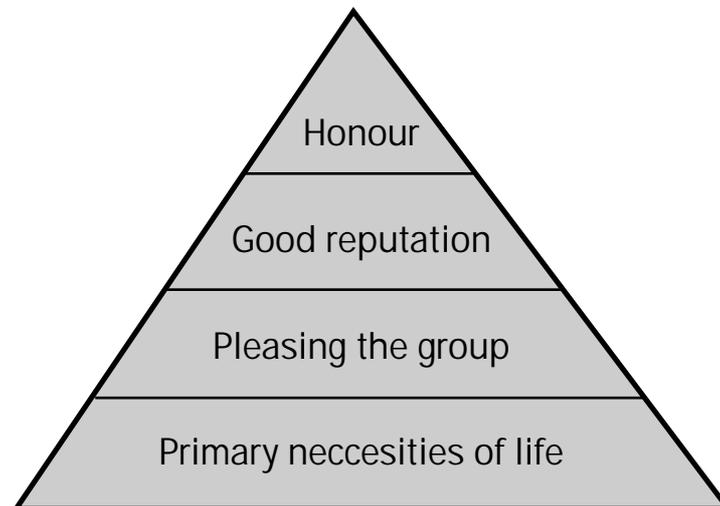
Country	Individualism	Power distance	Masculinity/ Femininity	Uncertainty Avoidance
Netherlands	80	38	14	53
West-Africa	20	77	46	54
Philippines	32	94	64	44
Turkey	37	66	45	85
Bulgaria	30	70	40	85
Poland	60	68	64	93
Romania	30	90	42	90
Russia	39	93	36	95
Czech-Republic	58	57	57	74

Basic introduction into two ways of structuring cultural values (Pinto)

- **F-cultures**

F-cultures are usually not western, fine structured cultures: detailed rules of conduct for almost every situation exist.

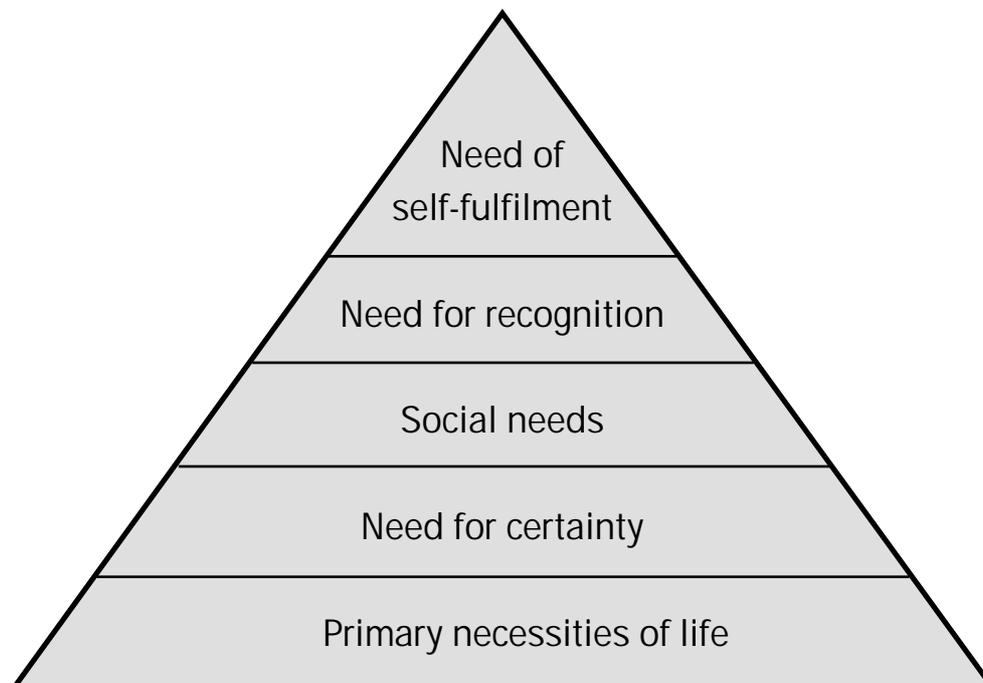
The identities of individuals in F-cultures are derived from the group that they are part of – e.g. their family or tribe. The identity of each group member is derived from his / her role, duty or behaviour within that group.



- **G-cultures**

G-cultures are modern, usually western, rough structured cultures: individuals are free to choose rules of conduct for all kinds of situations.

The identity of individuals in G-cultures is derived from their own achievements and skills.



Practical exercise: What is your good and negative experience with multicultural communication? (Facilitated discussion)

Step 1: The facilitator invites the members of the working group to share their views and experiences with multicultural communication. The facilitator uses a flipchart to record the 'successful' and 'unsuccessful' practices.

Step 2: After listing the positive and negative experiences, the facilitator raises the second question: How can we have more good experiences and less bad experiences?

Step 3: The facilitator will use a flipchart to record and summarise. The practical suggestions should include but are not limited to:

- Incorporating explicit anti-discriminative measures into identification procedures
- Having more training and education on the issues of multicultural communication
- Co-operate with cultural mediators
- Communicate with NGOs working with particular culture/ethnic group

opening session

B FIRST INTREVIEW

Purpose:

To introduce the interview model. The part B consists of 7 sessions covering in detail the individual steps of a first interview with a possible victim of trafficking. The steps to be taken by the facilitator in each session will be the same and therefore the instructions will not be repeated under each session heading.

Steps:

1. The facilitator hands out the interview check-list (see pg 2) and explains the procedure. The group is expected to brainstorm about the key elements of each step on the first interview and draw conclusions, which must always fulfil the 3 following minimum criteria:
 - A) Any action recommended must be in compliance with human rights (see section A of the manual for guidance)
 - B) Any action recommended must not further harm the trafficked person and/or expose him/her to a risk
Would it be good to also have these two points in the main text?
 - C) Any action recommended must be in compliance with the five rules of good policing
2. Facilitator records the answers on the flipchart and allows participants time to reflect on the replies, debate with each other and discuss the differences.
3. Summary and Closing.

The facilitator closes by summarising the key points on which the group reached a consensus. This material (Bloc B of the training kit) contains what should be included at minimum, however the participant's answers do not need to be limited to that.

Check list

1. Opening:

Introduction

Explain the here and now situation

2. Giving information

Explain the purpose of the interview

Explain the transfer to the police station, if the interview takes place there

Explain the structure and the proceedings of the interview

Explain the role of an interpreter or cultural mediator if there is one

3. Gathering information

Look at the problematical situation
Know who the person interviewed is (broadly)
Know how he/she got into this situation
Know what the situation is now
Know what he/she wants and expects and needs
Point out (possible signs of) trafficking

4. Updating the information

Explain to the person the actual situation he/she is in, their rights and options
Explain relevant national policies
Explain permit to stay
Explain criminal law
Explain civil law

5. Joint deciding what further steps to take

Look into the problematical situation and unused possibilities
Develop the desired scenario
Define a joint approach

6. Taking further steps

Undertake and Agree needs and risk assesment
Arrange a shelter
Do what you can to ensure safety
Arrange short term permit to stay
Arrange aid and assistance

7. Closing

Ask what he/she thinks about the situation here and now
Make an agreement about a ways how to stay in contact
Follow-up
Make contact with local assistance service providers
Make clear and specific agreements on any other relevant matter.

STEP 1 : Opening the interview

Purpose: Whether you had encountered a possible victim of trafficking in a public space, when controlling a nightclub or he/she was escorted to a police station, your goal is to build a relationship of trust, so that the victim and you can communicate together. The first interview is extremely important. The intention is to establish a situation in which the victim is safe enough to express to tell his/her story. It can be threatening to the victim, as he/she does not exactly know what is going to happen.

He/she might be hesitant to discuss the situation he/she is in, be stressed out, tired, ill, hungry, feeling cold or scared.

The opening of the interview can be divided into two steps:

- **Introduction**
 - Let him/her know who you are
 - Let him/her know the position you hold
 - Let him/her know that you are experienced in this kind of work
 - Let him/her know that you have met people in a similar situation already more than once
- **Explain the here and now situation**
 - Pay attention to the posture of the person
 - What emotions does he/she show: distrust, anger, anxiety? Name them
 - Let the person tell you how he/she feels
 - It is important to name the emotions first and then talk about them, otherwise he/she will not be able to listen to you and fully understand the information you are about to give him/her
 - Make sure that the person is not in pain, thirsty, hungry or cold before you will proceed any further
 - Check- how he/she sees the police?
 - Can we make him/her listen to what we have to say?

The focus on the here and now situation should enable the victim to understand what is going on and the situation he/she is in at that moment. If that is unclear, you will not be able to establish communication. In order to help him/her understand the 'here and now situation', you will have to provide the person with enough information. (The next step in the interview model).

It is up to you to decide whether you will provide information first, as described below. If the person urgently wants to talk, let him/her talk. Take him/her seriously. Listen very carefully and pay attention to the non-verbal behaviour.

In any other case, you should introduce the person into the 'here and now situation' and enable him/her to regain some control before providing you with any information.

Practical exercise: Test yourself

Describe the key aspects of non-verbal communication (body language).

For check see part "A", session 3

STEP 2: Giving information

Purpose: It is very likely that the victim absolutely does not trust the police. Usually the best way to achieve successful opening is by making very clear what exactly you are doing and what he/she can expect:

- **Explain the purpose of the interview**
 - Explain why you are having this interview with his/her and what you are trying to achieve with his/her help.

- Later the person needs to be able to consciously decide what further steps to take. (Report the crime or not, apply for the a permit to stay or not, stay here or return to home country).He/she should be informed about the options, which are likely to be available, at this early stage of the interview. Explain clearly how the statement will be used, including who may have access to it
- **Explain the transfer to the police station if the interview takes place there**
 - Many victims are overwhelmed when they are taken to the police station. Keep them informed and let them know that you will explain the whole situation to them once they are at the police station.
 - Do explain the reasons and procedure promptly after arrival to the police station.
 - Explore with them any steps that can be taken to assist privacy and taking then statement (eg video , having a supporter with them
 - Explain (if relevant) that they are able at any time to postpone or terminate making the statement and leave the police station
- **Explain the structure and the proceedings of the interview**
 - Explain how the interview will proceed step by step
 - This will help him/her to gain some control over the situation and inspire trust. This approach works well with both angry and distrusting victims and anxious and distrusting victims.
- **Explain the role of an interpreter or cultural mediator if there is one**
 - When using an interpreter, explain to the victim that you will only use the interpreter as a ‘translating tool’. Be clear: What can be expected from an interpreter and what not? (Maybe an interpreter was used in an earlier stage, in which case the explanation should have taken place then).
 - If a cultural mediator or confidante co-operates, explain clearly to all involved what the roles are and what can be expected and what not.

Practical exercise: Test yourself:

Describe the steps of the SHARE model of giving good information: share, highlight, assure, react, emphasise

For check see part “A”, session 2

STEP 3: Gathering information

Purpose: Your goal is to determine whether you have sufficient reason to believe that the person is a victim of trafficking, and to determine what immediate support and assistance measures are needed

- **Look at the problematical situation.**
 - Let the person tell you and clarify his/her story by answering your questions
 - Look for inconsistencies or vagueness in the story and ask him/her to explain
 - See if you can detect a call for help or fear of reprisals.
- **Know who the person interviewed is**
 - Let him/her tell you who he/she is, just a short history, and how he/she ended up here. Think about the cultural differences.
 - Pay attention to the person, express a true interest in the story. Make sure that you reflect the emotional state of the person and, if necessary, name the emotions, which you observe if you think it will stand in the way.
- **Know how he/she got into this situation**
 - Pay attention to exact time and space indicators.
 - Try to know for each fact if there are potential witnesses.

- **Know what the situation is now**
 - What situation is he/ she in at that moment and what will it look like in the next few days, especially now after talking to the police?
- **Know what he/she wants and expects?**
 - What does he/she want at this moment?
 - Look again for a possible call for help and make it concrete
 - What are the person's worries now?
 - What worries him/her the most?
 - Let the person know what you can do to help and what you can't do and when exactly this can be done. Let it rest for a while if necessary, but make sure you explain the options.
- **Point out (possible signs of) trafficking**
 - Listen carefully to what the victim is telling you.
 - Use the guiding questions from the check- list Nr 3 (section II, page nr...), when you think it is appropriate.
 - Use the check list Nr 1 (section II, page.....) or create your own check-list of indicators, which will help you to gain an orientation in the case.

When asking the questions do consider:

- How much information do you need to gather at this stage?

Important: Pay attention to the person's reactions and emotions during this phase.

Telling you the story can make the person anxious, angry or aggressive. You can notice signs of posttraumatic stress disorder. Are you prepared to respond to that?

Practical exercise: Test yourself:

Describe the steps of the FOCUS model to get information- focus, open end, use, summarise

For check see part "A", session 3

STEP 4: Updating the information

Purpose: By giving information at this stage your goal is practically the same as when giving information in the earlier stages: to make sure that the possible victim is safe and to build a relationship of trust, so that the person and you can work together.

Earlier in the interview we already started giving information and then gathering information.

However, you might need to raise the following points to make sure that the person fully understands his/her own situation, possibilities and limitations.

- **Explain to the person his/her actual situation (after checking)**
 - After you have heard the story, you should offer better and more precise information about the options available.
 - Briefly explain the situation if the person is irregular migrant and is at the police station.
 - Be honest about the consequences of being an irregular migrant, whether the person is co-operating or not.
- **Explain the relevant national policies**
 - Explain how exactly this policy affects him/her.
 - If relevant, explain at this stage that you suspect the person to be a victim of trafficking in persons and explain what it means.

- **Explain the permit to stay**
 - If there is a possibility to obtain a permit to stay in the country (short-term or otherwise), you are obliged to explain this possibility to the person.
 - Make sure that you explain the policy in plain and understandable words.
 - Do not forget to mention other possibilities and limitations.
- **Explain the criminal law**
 - Explain to him/her how the criminal law works in your country.
Mention the possibilities, but also the consequences of criminal proceedings.
- **Explain the civil law**
 - Explain clearly that, apart from criminal proceedings, the person has other options, such as civil or humanitarian proceedings.
 - Explain risks, and other opportunities for assistance that may exist. Be honest and realistic as to what the options may involve

STEP 5: Joint deciding what further steps to take

Purpose: Identify further options and make a joint decision. Decide what further steps to take.

- **Look into the problematic situation and unused possibilities**
 - The story is told and clear. (Are you dealing with a slavery victim: Y/N)
 - Clarify any possible inconsistencies and vagueness in his/her story. Look for points / things you can use.
 - Consider whether it is necessary to get more information now, or whether this can be obtained at a later stage. Do you have enough information for the initial assessment?
- **Develop the desired scenario**
 - Develop jointly the desired scenarios: application for a permit to stay, making a statement, going back to home country, etc...
 - Define realistic and achievable goals. (What are the elements? Which criminal offence was committed against him/her?)
 - Identify what is needed for a constructive change (Any additional information, help or service at this stage?).
- **Define a joint approach**
 - Discuss possibilities and the consequences strategies and let the person decide whether to report the crime or not, or whether to leave this decision to a later stage.
 - Repeat the information about all other available options (criminal or humanitarian procedure) and let the person decide whether he/she will use them.
 - Turn a strategy into a concrete plan
 - Agree a timeline, and next steps

After the exchange of information it is crucial to evaluate. The detective needs to go through the possibilities and consequences for the victim once more. If necessary, make a list of pros and cons so the victim can see clearly what the options are. Of course, it is best to let the victim rest and think about the options when a 'reflection delay' procedure is available.

Practical exercise: Test yourself.

Describe the steps of the STATE model to give constructive feedback- state, tell, address, tender, express

For check see part "A", session 3

STEP 6: Taking further steps

Purpose: Ensuring that the person is safe and his/her health, physical, mental and social needs are taken care of.

- **Arranging a shelter**
 - Refugee or migrant's centre
 - Starting the asylum procedure
 - Custody (this should only be used in clearly defined narrow circumstances- remember you are dealing with a victim of crime)

It is a key responsibility for the law enforcement officer to ensure that the person's safety is not at risk and that the person is not punished for the consequences of the crime committed against him/her. The referral to a shelter or self-support centre is recommendable.

- **Arrange short term permit to stay**
 - Ask yourself who starts the procedure? Is this well-organised in your region?
 - Fill in the necessary forms to support the victim's claim
 - Enter the procedure and make contacts with relevant stakeholders
 - Notify the public prosecutor/ where relevant
- **Guarantee safety**
 - Discuss with the victim in detail how her/his safety can be guaranteed. The victim plays an important role in maintaining the safety.
 - Explain any safety arrangements step by step.
 - Arrange for the victim to be referred outside of the region in a case of a danger.
 - Make it clear whether or not any personal information will be shared , if she/he reports the crime, and with who (chief of detectives, public prosecutor, etc.).
 - Consider the safety of others - for example the victims close friends and family
- **Arranging aid and assistance**
 - Is there an aid and assistance co-ordinator in your region?
 - Can this person arrange for the victim to be placed inside or outside the region?
 - When police matters are finished, will this co-ordinator pick up the victim and accompany the victim? (population, finances and public health)
 - Will this co-ordinator arrange all necessary assistance and communicate with relevant bodies? (health, registration for benefits, personal documents, etc)
 - A close co-operation between the services providers (NGOs) and police is recommendable.

STEP 7: Closing the first interview

Purpose: Gaining a feedback from the victim and making a clear agreement about the follow-up.

Before you will close the first interview, let the victim to give you a feedback:

- **Ask what he/she thinks about the situation here and now?**
 - What emotional state is he/she in?
 - Is there something what should have been be said and still was not?
- **Make an agreement about a ways how to stay in contact:**
 - How can she/he contact you and what can be expected from you?
 - How can you contact him/her?
- **Follow-up**
 - Set specific dates with her for follow-up interviews and phone calls,
 - Agree next steps. Make clear and specific agreements on any other relevant matter.



Annexes

Towards a Standard Protocol for the Identification and Assistance of Trafficked Women Country Report - United Kingdom

When attempting to provide a background to the rise of trafficking into the United Kingdom we are severely hampered by the fact that until approximately 1998/1999 there was very little knowledge of trafficking into the country. In 1999, Dr Liz Kelly and Linda Regan of the Child and Woman Abuse Studies Unit produced a report⁴⁸ on behalf of the Home Office which looked at the sex industry in Soho, central London, their findings indicated that between 140 and 1420 trafficked women were working in 'off street' prostitution at that time. Unfortunately the scope of the project did not allow any exploration of trafficking into prostitution outside of Soho and although agencies were contacted who may have been working directly with trafficked women there was an almost total lack of awareness and accurate identification. As with other destination countries, we are certain that there has been an increase in the numbers of women trafficked into the UK over the last five years. The POPPY Project mapping report 'Sex in the City' (publication due Aug 2004) clearly shows evidence of 'off street' prostitution in all of the 33 London boroughs, with an estimated 80% of non British nationals working in Brothels, Saunas and Massage Parlours. Whilst not all of the women working in these establishments will have been trafficked, it is our experience that a large percentage will have been and will meet the definition of trafficking as set down in the Palermo protocol.

In recent years there have been some developments around the issues of trafficking into the United Kingdom. A number of statutory and voluntary agencies are now more aware of the issue of trafficking and the need to provide services for victims. Since March 2003 the Home Office has funded the POPPY Project to work with women who have been trafficked into prostitution and this has enabled POPPY to provide accommodation and support for up to 25 women at any one time. The key support needs of trafficked women are identified below and women using the scheme are able to access them as required:-

⁴⁸Stopping Traffic: Exploring the Extent of, and Response to, Trafficking in Women for Sexual Exploitation in the UK (Kelly and Regan Home Office, 2000)

- Safe accommodation, food and subsistence allowance
- Interpretation and Translation services
- Physical, sexual and mental health assessment and services, including counselling if desired
- General support and advocacy
- Legal information and advice – including regarding asylum
- Educational opportunities
- Advocacy and liaison with police and immigration, including information about the implications of assisting the authorities
- Detailed information about the options for returning to their home countries and exploration of services available within that country
- In court support, protection and legal assistance

However, even when trafficked women are recognised as victims they are only allowed to access the scheme on the basis that they will co-operate with UK law enforcement. When working with women on the POPPY Project this particular restriction causes the most concern to women and has undoubtedly led to a number of other women feeling unable to access services at all. Furthermore, the POPPY Project remains the only group in the UK funded to work with trafficked women and there is currently no provision available outside of London. When we consider that the 'off street' sex industry in Birmingham is now estimated to comprise of 70% non British nationals it is clear that there is an urgent need for further development of resources and safe accommodation.

Since the development of the POPPY Project we have mainly worked with women trafficked from Eastern Europe and South East Asia with a small percentage of women from Africa. The average age of women we have worked with has been between 20 – 26 years, although a large percentage of women have reported to us that they were first trafficked under the age of 18.

Legislative Framework

Trafficking for the purposes of sexual exploitation was first criminalised in the UK under the Nationality, Immigration and Asylum Act 2002. This has now been superseded by the Sexual Offences Act 2003. Under s57(2), S58(2) and S59(2) of this act the maximum sentence available at Crown Court is 14 years and at Magistrates Court there is a maximum sentence of 6 months.

Trafficking for other forms of exploitation is not currently an offence in the UK, although this is due to change shortly. Parliament is considering the Asylum and Immigration (Treatment of Claimants) Bill, which sets out a new offence of trafficking for exploitation around forced labour, slavery and the trafficking of organs. Given the previous lack of legislation it is not possible for this report to provide any assessment of services, identification accuracy or appropriate developmental models for future provision.

Until now all trafficking cases in the UK have been prosecuted under different legislation, including false imprisonment, controlling prostitution, procuring women for prostitution, living on the earnings of prostitution, rape, assault, incitement to rape, and immigration offences. Unfortunately, given the reluctance of the Criminal Prosecution Service to test the anti trafficking legislation it is not possible to make any assessment of its impact on trafficking.

Finally, although the UK signed the Transnational Organised Crime Convention and Palermo Protocol in 2000 it has not yet ratified the treaty by formally giving it effect in British Law.

Identification of Trafficked Persons

The process of identifying trafficked persons in the UK is ad hoc and arbitrary. Access to services and appropriate support can vary enormously depending on where a trafficked person is first encountered, which agency first works with the person, whether or not the staff member involved has any knowledge of trafficking and even whether they 'believe' the person's experiences. Given the lack of cohesion and willingness to engage it is very difficult to provide a more positive assessment of statutory response and future development.

The actors who first come into contact with trafficked persons in the UK are most likely to be amongst the following

five groups:

1. Immigration

Women who are identified as being trafficked will not receive services if they are stopped by immigration officers at UK ports of entry. The UK Immigration Service is of the view that the women have not been trafficked onto UK soil and therefore are not entitled to any services. In these cases women are routinely returned to their countries of origin, or returned to the country from which they have travelled.

Women who are identified as trafficked whilst staying in the UK will receive a variety of responses from immigration officers. Some immigration officers will recognise the act of trafficking and will acknowledge the right the women have to receive services, whilst others choose to interpret the trafficked woman as an 'illegal migrant' and will facilitate deportation as a matter of course. In the past year Immigration Services have, in conjunction with the Metropolitan Police (CO14 Clubs and Vice Unit), carried out a number of visits under 'Operation Kontiki'. This initiative aimed to identify those women working in 'off street' prostitution who may have been trafficked in order to thwart traffickers and offer women exits out of prostitution. However, whilst Kontiki has identified a number of women working illegally and has encountered trafficked women, this has not translated into any significant increase in women referred to the POPPY Project.

2. Police

The Metropolitan Police Central Clubs and Vice Unit (CO14) is currently charged with the responsibility for monitoring 'London's prostitution industry in order to protect the most vulnerable adult and child prostitute victims and to seek to investigate and prosecute those who exploit them'⁴⁹. This remit has led to CO14 being perceived as the contact point within the Police Service for all cases of trafficking and the POPPY Project has worked closely with CO14 on several cases, but although the unit deals with victims of trafficking, it is not an anti trafficking unit, it does not deal with the transnational aspects of trafficking and historically has been developed to monitor and police the central London vice market in areas such as Soho and Shepherds Market. The unit does work closely with a limited number of victims of trafficking and has provided an excellent service in some cases, but the officers are not necessarily trained to work with victims and the unit is also hampered by a staff team of less than twenty officers to cover the UK.

Operation Maxim is the transnational arm of the Metropolitan Police's working to combat organised crime, which also carries out anti trafficking activities. This unit is responsible for providing advice to other UK police forces around the area of trafficking. This unit does not appear to work with victims of trafficking and the POPPY Project has not developed any working protocol with them.

'Sapphire' is the Metropolitan Police specialist unit charged with the investigation of rape and sexual assault across London. Each unit is attached to a police station, although Sapphire is managed centrally through the Territorial Support Group, the officers working on the 'front line' do not usually work with Sapphire Officers from other units. In terms of anti trafficking work this means that the expertise one officer or unit may gain whilst working on a particular case is not necessarily cascaded to other officers who could benefit. Whilst the primary role of the Sapphire teams is to investigate crime, the developed culture is one of victim focus and the provision of support through the use of SOIT (Sexual Offences Investigation Techniques) Officers who are thoroughly trained to work sensitively and effectively with the victims of crime. The Sapphire Units also work closely with other partner agencies such as sexual health agencies, rape crisis units etc to ensure that victims are offered a more holistic package that will meet many of their needs. The Poppy Project has worked with different Sapphire teams on a number of occasions and it is our experience that the response to trafficking and working with victims of trafficking has been very dependent on the individual staff members concerned. For example when working with police officers involved with the case against trafficker Luan Plackici in the autumn of 2003 it was our experience that the Sapphire Officers were fully committed to understanding the complexities of trafficking and were extremely concerned to provide a service to the women that was sensitive and caring. However, we have also worked with other Sapphire Units who have been reluctant to get involved with the 'trafficking' aspects of cases and who have assumed that because the women concerned were involved in prostitution that this has weakened the claims of rape or sexual assault.

The majority of Community Police officers in the UK have scant knowledge of trafficking, have received no training and are very likely to mistake the victims of trafficking for 'illegal migrants' and thereby refer them immediately to immigration services.

⁴⁹Communication from CO14 – Dec 2003

3. Detention Centres

Currently there are no formal procedures in place if a victim of trafficking is identified within UK detention centres. Some NGO's who provide assistance to detainees have sought to make referrals to the POPPY Project and the success of this has depended heavily on the willingness of immigration services and the police. As a result the services have been patchy.

4. NGO's/Voluntary Sector

Information and awareness around the issues of trafficking in UK agencies is poor. Whilst many of the larger 'international' agencies will have knowledge this has not necessarily cascaded down to agencies that might come into contact with victims. In addition to this the issues of trafficking within sex worker projects have become rather subsumed around the debate around the legalisation/decriminalisation of prostitution which has polarised the sector for many years. There has been very little work done around the identification of victims and apart from the POPPY project there are no agencies offering accommodation throughout the UK.

5. General Public

Since the setting up of the POPPY Project we have been contacted on a number of occasions by members of the public wishing to make referrals to the scheme. Those contacting us have included brothel maids, customers, other women involved in the sex industry and neighbours of brothels etc. Given the current lack of public awareness the percentage of callers is small but we do expect this to increase in line with increased understanding.

Final Comments

When looking at the statutory response to trafficking into the UK it is clear that there is much work to be done. The development of a protocol for the identification of victims of trafficking is a much needed tool and will prove invaluable to all of the stakeholders involved – as they will come to understand!

Background

The transformation of Italy from a country of origin of migrants to one of transit or destination started in the 70s and reached its peak in the 90s. The fall of the Berlin wall has knocked down the boundaries that till then had been believed to be very strong, and the Italian peninsula started to become the landing and crossing point for thousands of migrants coming from many different countries. Indeed, the fall of the Berlin wall has simply given a stronger drive to a process which had already been triggered some time ago, caused by a range of factors, among which: the development of the so-called informal economy in Western Europe, the collapse of the economies in the countries of origin, the gender discrimination, the feminisation of poverty, the tightening of the control policies on European borders. To overcome these obstacles and accomplish their own migration project, a higher and higher number of undocumented people has started to turn to illegal ways which might ensure their arrival in Italy.

Starting from the first half of the 90s the phenomena of human trafficking and smuggling became a fully-fledged "industry" that over time has specialised in and created segments of services managed and offered by different types of criminal networks. Once arrived in Italy, the migrants either continue their travel to reach another European country – mainly Germany, France, Belgium, The Netherlands and Great Britain –, and sometimes an American one (United States and Canada), or stay on the Italian soil.

Regardless of where they will finally reside, the illegal migrants are likely to be exposed to exploitation by the same organisation that favoured their illegal entry, by an interconnected one or by locals. The main sectors of the Italian job market involved in this exploitative mechanism are: agriculture, construction, garment, catering, trucking, entertainment, retail commerce, services, domestic help, aged assistance, baby sitting and sex industry. A certain percentage of trafficked people are also employed in illicit activities linked mainly to the markets of drugs, products counterfeiting, street vending, screen cleaning, prostitution, entertainment, pornography, begging. The main victims exploited in the latter sectors are in particular women and children, who sometimes are forced to simultaneously perform several activities (i.e.: some children work as screen cleaners or flowers sellers during the day and as prostitutes during the night; or some women work as dancers and occasionally as drug dealers).

Forced prostitution is the major sector of exploitation in which trafficked women are inserted once they arrive in Italy. Such phenomenon, which began in the early 90s, now presents the dimensions of a real industry divided up in departments and managed by different criminal groups. In the last ten years, this form of exploitation has gone through several structural and logistical changes, hence becoming a highly articulated and operative machinery that involves a series of actors in the distinct stages and in the different countries of trafficking and exploitation.

The street is with no doubt the place where the phenomenon of trafficking for the purpose of sexual exploitation is most visible. It is estimated that between 75 and 80% of women trafficked for prostitution in Italy end up in this form of prostitution. Nevertheless, in recent times, a "mixed" form of prostitution is taking place: women are no longer forced to prostitute themselves only in one setting but in several ones during the same time period.

The estimates of the phenomenon are difficult to quantify. Many figures have been proposed in these years by various agencies but they are so diverse that they just prove the difficulty to really define the boundaries and the numbers of the phenomenon. As a matter of fact, in Italy, there are no official databases on victims of human trafficking. This is the result of a series of shortcomings of the Italian legislative, investigative and judicial system. In fact, no comprehensive data collection system has been employed so far and, therefore, no national detailed information are available on the phenomenon of trafficking and on the main actors involved - namely, victims, traffickers, exploiters, and all those people partially involved at different stages of the process of trafficking and exploitation.

Victims trafficked to Italy mainly come from the Balkan area, specifically from Albania and countries of former Yugoslavia; from Africa, in particular Nigeria, and to a lesser extent Ghana, Liberia, Sierra Leone, Morocco, Tunisia; from Eastern Europe, in particular from countries of the former Soviet Union bloc such as Russia, Moldova, Ukraine, Romania, Hungary, Bulgaria (15-20%); a small percentage from Latin America and China.

⁵⁰Parts of these paper are based on an updated version of excerpts of "Country Report: 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 (2003) funded by the European Commission and developed by Payoke (Belgium), Associazione On the Road (Italy) and De Rode Draad (The Netherlands) within the Hippokrates Programme (JAI/2001/HIP/023).

THB measures and state of play

Legislative framework

Since the 11th of August 2003, Italy has its first law to specifically punish the offence of human trafficking in compliance with the tenets envisaged in the UN Protocol: **law no. 228/2003 “Measures against trafficking in persons”**. Before the enactment of such a provision, the law responses to human trafficking were quite inhomogeneous since different law enforcement officials and public prosecutors used different rules to punish traffickers and actors involved in the phenomenon. In fact, given the lack of a distinct and comprehensive law that clearly defined and punished trafficking, other legal provisions of the Criminal Code were used in order to investigate and prosecute such a crime.

The new law is thus a great improvement over the existing system: it finally inserts the specific crime of trafficking in persons in the Penal Code and provides a new definition of reduction to slavery. It covers all forms of trafficking, slavery and servitude and contains elements of the crime – violence, abuse of authority, profiting on a situation in which the other person is in a situation of physical or psychological inferiority, as well as internal and cross-border trafficking. The law provides the compulsory confiscation of profits deriving from trafficking and the set up of a “Fund for anti-trafficking measures”, that will increase the funds allocated for the Programme of Social Protection and Assistance of victims of trafficking through the Legislative Decree no. 286/1998 (Immigration Law).

However, due to its recent implementation, it is not currently possible to assess the impact and evaluate the results of this anti-trafficking law, both at the judicial and social level⁵¹. While waiting to verify the effectiveness of the law no. 228/2003 “Measures against trafficking in persons”, it is possible to state that the most effective tool implemented so far in Italy to fight human trafficking is doubtless the **Art. 18 of the Legislative Decree no. 286 of 1998**. Such a law has proved to be an effective instrument to support victims of trafficking, investigate the phenomenon, and punish the traffickers. Most of all, it has acknowledged the status of victims of trafficking to thousands of migrant people - women in particular - and provide them with special assistance, protection and a stay permit for humanitarian reasons.

Practices

The enactment of the Legislative Decree no. 286/98 (in particular of Article 18) has represented a milestone both in the fields of social policies and the fight against the trafficking in human beings. Through financial support provided by the new law, the Italian Government has started to promote, on one hand, the social inclusion of trafficked people, and on the other, the struggle against trafficking and, therefore, setting up the first coordinated and structured programme of social protection of victims of human traffic and strengthening the fight against traffickers and exploiters.

This law has provided for the implementation of the **Programme of Social Assistance and Integration** and a set of actions, all managed by the Interministerial Committee for the Implementation of Art. 18, the managing body of the Programme⁵². The call for the submission of project proposals is launched yearly by the Department for Equal Opportunities, which technically and financially runs the Programme⁵³. It is important to underscore that the each grant – by law – is co-financed by the Department for the Equal Opportunities (70% of the eligible costs) and by a local authority (30%). NGOs, associations and local authorities (Municipalities, Provinces and Regions) yearly submit their project proposal to the Department for Equal Opportunities. The NGOs applying for the funding must involve as project partner a local authority. In order to be eligible for the funding, the NGO or the association must be enrolled in the register of NGOs and bodies carrying out assistance to migrants set up by the Executory Regulation of the Legislative Decree no. 286/98 at the Presidency of the Council of Ministers.

⁵¹Besides it is also important to underline that other two laws will have strong side effects on the phenomenon of human traffic in Italy: the recently approved Immigration law no. 189/2002 “Change of the discipline concerning immigration and asylum” (known as “Bossi-Fini”, after the politicians who proposed it) and, in case it will be voted by the Parliament, the law “Provisions concerning prostitution” (known as “Bossi-Fini-Prestigiacomò”).

⁵²The Committee is composed of representatives of the Department for Equal Opportunities, the Ministry of Justice, the Ministry of Welfare, and the Ministry of Interior. Its assignment is to propose policies, evaluate, fund and supervise the projects of social assistance and integration targeting victims of trafficking.

⁵³Since its activation, the Programme has funded 222 projects throughout the country. It is important to underline that most projects have been funded in all four calls.

The Article 18 permit applies to foreign citizens in situations of abuse or severe exploitation where their safety is seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organisation or as a result of pursuing criminal action against the traffickers. People granted the Article 18 permit are obliged to participate in a social assistance and integration programme offered by various local NGOs and local public authorities funded by the above-mentioned Interministerial Committee. They are also afforded access to board and lodging; free legal assistance; health and social services; psychological counselling; social activities; educational and training activities; Italian language classes; vocational guidance; job insertion. In some cases a person can be hosted in different phases of her/his individual programme by distinct projects throughout Italy.

Two separate ways of obtaining the residence permit actually exist. The first one is a judicial procedure ("judicial path"), in which the Public Prosecutor has an important role to play, and the second one is a social procedure ("social path"), involving the local authorities, associations and NGOs as main reference points. The "judicial path" implies that the victim will cooperate with the police and the prosecutor. S/he will be instrumental in bringing charges against the perpetrator by filing a complaint. The "social path" does not require the formal report to the Questura but the submission of a "statement" (containing provable key-information) by an accredited Article 18 agency or by the public social services of a City Council on the behalf of the victim⁵⁴. This is because some victims do not have relevant information about the criminal organisation; or the criminals have already been prosecuted; or "simply" because, at the beginning, they are too scared for their own or their relatives' safety to press charges. Nonetheless, these factors do not diminish their "victim status" and the need to receive help and support. In the Italian experience many women who began the social path, after having been reassured and having gained new trust in institutions and legality, came to the decision to file a complaint against their traffickers and/or exploiters.

Both methods lead, in the end, to a residence permit for education or for work, allowing the foreigner to remain in Italy in conformity with the regulations governing the presence of non-European Community foreigners. This is an important starting point, not only because it places the main emphasis on the protection of the victims and on providing a means of escape from exploitation, whether sexual or labour, but also because, from the point of view of fighting crime obtaining the trust of an exploited individual and providing him/her the opportunity to start a new life in Italy is the first step in overcoming fear, threats of vengeance by traffickers, distrust towards institutions and fear of deportation, which often prevent the victim from reporting his/her exploiters. The Article 18 permit is renewable, and it does not oblige the person to go back home once the programme is over. In fact, if the person has a regular job at the end of the programme, they can remain in Italy accordingly to their work contract's conditions and, eventually, they can also apply for permanent residency.

Victims of trafficking can directly access a programme of social assistance and integration or they can be referred to an agency running an Art. 18 project through several channels and/or the support of different actors such as: law enforcers, social services providers, voluntary organisations, acquaintances, friends, clients, partners, Numero Verde Nazionale contro la Tratta, outreach units, drop-in centres and so on. Not every project necessarily provides all types of services directly. In several cases, in fact, the wide range of activities and services is assured by the projects' network⁵⁵.

⁵⁴It is possible that, due to the statutory obligation of accusation on the part of the Questura when a *notitia criminis* is found, also a person within the social path is asked to testify, usually through a special evidence pre-trial hearing (*incidente probatorio*). A victim or the prosecutor can also request the *incidente probatorio* when there are specific conditions that may jeopardize the trafficked person's safety or the evidence.

⁵⁵In four calls 222 projects have been funded: 48 in the first call (2000-2001); 47 in the second call (2001-2002); 58 in the third call (2002-2003); and 69 in the fourth call (2003-2004). It is important to underscore that the budget allocated for this programme has slightly changed after each call; therefore, even if in the last call a higher number of projects has been funded, many of them were granted an undersized fund.

Another important tool must be mentioned in this framework of governmental and non-governmental actions to combat trafficking in human beings: the **Numero Verde Nazionale contro la Tratta 800-290.290** (Toll Free Number against Trafficking). This is a national hotline directed to victims of trafficking, clients, social and law enforcement agencies and the population at large. Financed by the Interministerial Committee for the Implementation of Art. 18, the *Numero Verde* is composed of a single central headquarter that functions as a filter for the calls and 14 territorial branches located in 14 different regional or interregional areas throughout Italy. In most cases, the territorial branches of the Numero Verde are managed by the same Ngos and public institutions responsible for the implementation of projects funded within the Art. 18 Programme. The types of information asked for concerned: *Numero Verde*, Programme of Social Protection and Assistance, legal advice, socio-sanitary services and addresses. Information is provided in the various languages spoken by the target group, including: English, Albanian, Russian, French, Spanish, Rumanian, Bulgarian⁵⁶.

Since the implementation of the Social Assistance and Integration Programme, the Interministerial Commission also funded other initiatives, the so-called "**azioni di sistema**":

- Printing and distribution of stickers advertising the toll free number in the main languages spoken by the target (included several Nigerian dialects);
- Public awareness campaign to publicize the Numero Verde through radio and TV commercials;
- National seminars aimed at social operators working in agencies running Art. 18 projects;
- The research Trafficking and smuggling in persons for the purpose of exploitation carried out by the Research Centre on Transnational Crime of the University of Trento in collaboration with Ministry of Justice;
- The "Voluntary Repatriation Programme" run by the Italian branch office of the International Organisation for Migration (IOM) in collaboration with the Ministry of Interior.

Identification of trafficked persons

The identification of trafficked persons in Italy is not based on standardised procedures. In fact, regardless of the quite innovative system of assistance and protection put in place to assist victims of trafficking, no homogeneous and coordinated routines to identify them have been established so far.

The actors who first come into contact with trafficked persons are:

- *Border police*

During their regular checks of foreign citizens entering the Italian territory through the border posts located throughout Italy, at the airports and ports. They may initially identify trafficked persons through administrative procedures: passport control, inspection of the means of transportation (car, bus, lorry, ship). Border inspectors may also find trafficked persons trying to illegally enter the country during their patrolling activity of the frontiers.

- *Law enforcement agencies: Police officers* (Patrolling units, Criminal units, Immigration office), Carabinieri, Guardia di Finanza, and Municipal Police.

These agencies usually identify trafficked persons in the course of their patrolling activities and during their investigations. Trafficked women for the purpose of sexual exploitation are often contacted through raids and checks. Sometimes, though, victims of trafficking are identified as smuggled persons and, as such, repatriated without being duly informed about their right to access a programme of social protection. Identification seems not to be a standardised procedure but, in several cases, the result of personal sensitivity and expertise developed through regular contact with the phenomenon of trafficking (mainly for sexual exploitation). The main criteria used to identify the victims seem to be: country of origin, age, length of staying in Italy, type or lack of documents, Italian language proficiency. Identification though seems to take place especially through the case investigation.

⁵⁶From July 2000 to September 2002, the Numero Verde received 446.026 calls: 155.745 (34.92%) were "good calls", the rest were: "calls external to the target group", "interrupted calls", and "wrong numbers". The majority of calls were those of citizens (61%), followed by those of victims of trafficking (11%), relatives (9%), clients (8%), police (7%), exploited sex workers (3%) and suspected persons (1%). These figures need to be interpreted because it is not always easy to clearly distinguish the given categories. For instance, the distinction between a citizen and a client is sometimes problematic since a person usually prefers to present himself as "a citizen" rather than "a client".

Victims we interviewed underlined that, in several cases, they suffered from police unfair treatment and failure to identify them as victims of trafficking. As a matter of fact, the application of the “art. 18” is not fully and homogeneously implemented throughout the territory. Some Police Headquarters (Questura) apply only the “judicial path” and, in some cases, they do so only if it is “judicially useful”, thus, on the one hand, not entirely respecting the law and, on the other one, significantly diminishing the effectiveness of the system but, most of all, not respecting the victims’ rights and needs. Sometimes, the offer of joining a social protection scheme is not adequately explained and it is used as a sort of “reward” in exchange of information, establishing then a “do ut des” mechanism that is not envisaged in the law. Information on the functioning and the rules of the social assistance and integration programme are at times insufficiently provided, and the programme is often presented in a few words (“we can give you a stay of permit and a job”) without giving detailed explanation concerning the duties and rights implied in the programme.

Conversely, it is important to underline that within each Questura (usually within the Immigration Office), the Ministry of Interior has appointed an “unique referent” officer who is responsible for the “Art. 18 cases of human trafficking”. Unfortunately, not all Questura have assigned this task to an officer that, when existing, has proved to play a significant role of interface amongst all relevant actors involved: law enforcement agencies, Ngos, local authorities, national authorities, Numero Verde contro la Tratta and, of course, victims. In the areas where significant forms of collaboration between law enforcement agencies and social organisations have been established and strengthened through the implementation of the “Art. 18 system”, the identification of trafficked persons seems to be more effective, even if no standardised procedures are not in place.

Collaboration among different law enforcement agencies is seriously lacking.

In the last few years, international police cooperation has been enhanced. Italy has signed more than 60 agreements with 40 countries in order to exchange know-how and information to counteract illegal immigration and human trafficking. Particularly relevant it seems to be the agreement signed with the Albanian government (1997) and the Nigeria one (2000), according to which all the Albanian or Nigerian citizens, who are found to illegally stay in Italy, can be immediately expelled. These measures are sometimes misused and, among the deported undocumented migrants, some trafficked persons may be found.

- *Public Prosecutors’ Offices*

Prosecutors get in contact with trafficked persons after they have been identified as such by the law enforcement agencies. Some times, though, they may directly identify victims of trafficking in the course of their crime investigation. No specific procedures to interrogate victims have been detected.

- *Prisons*

Among foreign nationals hosted in the Italian prisons, it is likely to find trafficked persons that are not identified as such by the prison guards and social workers. Proper assistance is then provided very occasionally. This is certainly an area of work that must be explored by the project. Special attention must be paid in regards to minors.

- *Labour Inspection Office*

During their ordinary checks, labour inspectors may find foreign citizens trafficked to Italy to be exploited in labour sectors such as garment industry, agriculture, construction, domestic help, aged assistance.

- *Detention centres (“Centro di permanenza temporanea e assistenza per cittadini stranieri” - Centre for temporary residence and assistance for foreign citizens)*

Undocumented foreigners who illegally entered Italy and are caught by the police are temporarily sheltered in one of the detention centres located in different regions of Italy for a maximum of 60 days, while the police must identify the person and, according to the information collected, decide whether to expel him/her or allow him/her to stay in the country. If a person is suspected to be a victim of trafficking, s/he is supposed to be informed regarding the possibility of accessing a social protection programme. This does not always happen though, and people are sent back to their home countries (this is often the case of Albanian and Nigerian women). No standardised procedures for the identification of trafficked persons are in place; nevertheless, some centres are regularly visited by social workers who are experienced in working with this target group.

- *Third sector*

Since the early 1990s (in some areas even earlier), different kinds of agencies have been active in the field of social inclusion of trafficked people: NGOs, religious institutions, women's groups, voluntary organisations, social co-operatives, advocacy groups⁵⁷. In the course of their activities (mainly during the outreach work, legal and social counselling, health accompaniments), they may identify victims of trafficking or the latter report themselves as such. No common specific criteria for the identification are employed by the abovementioned agencies, that mainly provide their services to victims of trafficking for the purpose of sexual exploitation. However, general criteria adopted are: lack of documents, illegal stay, nationality, signs of use of force or other forms of coercion, of abduction, of fraud, of deception, abuse of power, no freedom of movement.

- *Local authorities* (Regions, Provinces, Municipalities, Local Health Districts)

In order to identify a victims of trafficking, they generally employed the criteria adopted by the agencies of the so-called third sector. It is important to highlight that they represent key-players in the implementation of policies both against human traffic and harm reduction in prostitution. The public institutions are active both by providing financial support and services to victims of trafficking; their involvement in the anti-trafficking field has mainly been fostered by the enactment of Art. 18.

- *Numero Verde Nazionale contro la Tratta 800-290.290* (Toll Free Number against Trafficking)

The different 14 territorial branches of the national hotline play an important role in the identification of victims of trafficking who, in a small percentage, directly contact the operators. Clients, social and law enforcement agencies and the population at large are the main users of this important means of support of trafficked persons, mostly sexually exploited. The success of such a tool is though directly connected with its advertising strategies.

- *Citizens*

Through direct contact for whatever reason, also citizens may get in touch with trafficked persons, who are considered illegal migrants severely exploited and in need of help and as such referred to a private organisation or to the law enforcement agencies.

III. Some remarks

According to the law enforcement officers and social workers we interviewed, the elaboration of a model protocol for the identification of trafficked persons is much needed in Italy. They also agreed to contribute with proposals and feedback remarks to the protocol we will develop. In particular, we highlight the significant collaboration we agreed upon with of the Anti-mafia Investigation Department. The latter is a highly recognized agency that fights the most severe and insidious crimes, and that has been recently appointed as the principal counter-trafficking actor in Italy (law no. 228/03), which will work at local level through the Procure Distrettuali Anti-mafia (Anti-mafia District Prosecutors' Offices).

These are some elements that need to be taken into account for the drafting of the model protocol and the elaboration of the training kit:

- **Detailed and correct information** must be provided to victims of trafficking in order to allow them to take decisions on a fully informed basis. **Clarity of expectations and obligations** must be promptly defined;
- Victims need **time** to identify themselves as such and to take the decision to join a social protection programme and/or cooperate with the competent authorities;
- Any type of assistance must be provided in a **non discriminatory and non judgemental** manner (especially in regards to victims who have been exploited in the sex market), be in compliance with the **human rights-principles**, and be **gender and multi-cultural sensitive**;
- The **distinct roles** of the different actors providing assistance and support to victims must be clearly **defined, acknowledged and respected**;

⁵⁷All these subjects have been the pioneers of different methodologies and practices and key-actors during the process of the elaboration and drafting of Art. 18.

- **Coordination** among the distinct agencies engaged in the anti-trafficking field must be implemented, especially among the different law enforcement agencies at local, national and international level;
- **Multidisciplinary local assistance teams of different professionals** (social workers, outreach workers, doctors, psychologists, lawyers, public officers, law enforcement officers...) should be set up at local level and should be coordinated through a specialised steering committee;
- **Training and refresher courses** should be **regularly organized** for all actors involved in the counter-trafficking activities to update them on changes in legislation and practices. Training measures should include intercultural competence to fully and correctly understand a trafficked person accordingly to his/her individual cultural background;
- **Interpreters and cultural mediators** should be crucial co-workers to gain the persons' confidence and build a trusting relationship;
- Constant updating on the changes occurring in the field of trafficking and related exploitative sectors is a priority in order to promptly address the victims' needs and aptly fight organised crime;
- Identification procedures and assistance practices must be implemented for victims of trafficking of **all types of exploitation**;
- **Proper settings** to respect the victims' privacy and safety must be set up at the police headquarters and in courtrooms;
- **International cooperation** must be included in the ordinary practices;
- Both protocol model and training kit must be very practical and not a new re-arranged list of well-known recommendations.

Laws on Trafficking in Human Beings, the Netherlands

I International treaties

The Netherlands have signed or ratified the following international treaties regarding migration in general and identification of THB and safe return and social inclusion for victims of trafficking in particular.

- ILO Convention No.29 on Forced Labour, 1930, ratified 31/3/1933
- ILO Abolition of Forced Labour Convention, 1957, ratified 18/2/1957
- ILO Convention No.97 on Migration for Employment, 1949, ratified 20/5/1952
- UN Convention Relating to the Status of Refugees, 1951, signed 28/7/1951 and ratified 23/3/1953
- UN Convention against Transnational Crime, signed 12/12/2000 and ratified 26/5/2004
- UN Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children, supplementing the UN Convention against Transnational Crime (Palermo Protocol), signed 12/12/2000 and ratified End 2004
- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified 22/8/1991

II Bilateral/Regional agreements

European Union

- Charter of Fundamental Rights of the European Union, d.d. 7/12/2000 (Nice)

CHAPTER I

DIGNITY

Article 5

Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

- Treaty on the European Union, art. 29, Title VI Provisions on Police and Judicial Cooperation in Criminal Matters, d.d. 7/2/1992 (Maastricht)

Article 29 (ex Article K.1) Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia. That objective shall be achieved by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud, through:

-closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the European Police Office (Europol), in accordance with the provisions of Articles 30 and 32;

-closer cooperation between judicial and other competent authorities of the Member States in accordance with the provisions of Articles 31(a) to (d) and 32;

-approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e).

- Framework Decision on Combating Trafficking in Human Beings, d.d. 19/7/2002; effective from 1/8/2002 (EU Member States have to adjust national legislation before 1/8/2004)

“EU Member States have to assure that THB is included in the penal code, following the definition of Palermo (EU signed UN Convention against Transnational Crime in Dec 2000). Maximum sanctions should not be less than 8 years in prison. MS have competence when THB is committed on its territory, when the perpetrator is a citizen of the MS or when the crime is committed in favour of a legal person resident in the MS. The second criterium is important for those MS who refuse to extradict their own citizens, because it obliges them to prosecute this perpetrator themselves for crimes committed on foreign territory.”

- Proposal for a Directive on the Short-Term Residence Permit issued to Victims of Action to Facilitate Illegal Migration or Trafficking in Human Beings who Cooperate with the Competent Authorities, d.d. 11/2/2002 (EU Member States have to adjust national legislation before 30/6/2003). (accepted by the Dutch Senate on 27/4/2004; unknown when it will be effective)

The main elements contain the States' duty to informing victims of the possibility to obtain temporary residence permit, a 30 days reflection period, a 6 months temporary residence permit upon pressing charges, renewable every 6 months if the victims cooperates with authorities and severs all ties with her perpetrator. The victims presence is to be relevant to the state. The victims is ensured with the right to health care, shelter, free legal aid, free interpretation and translation services, social welfare if victim is without funds, has access to vocational training, education and work.

The Commission will report on the implementation of the Directive in the Member States in 2007.

- Resolution on the protection of witnesses in the fight against international organized crime, D.d. 23/11/1995

A. Calls on the Member States to guarantee proper protection of witnesses taking account of the following guidelines:

1. for the purposes of this Resolution, 'witness' means any person, whatever his legal status, who possesses intelligence or information regarded by the competent authority as being material to criminal proceedings and liable to endanger that person if divulged;
2. such witnesses should be protected against all forms of direct or indirect threat, pressure or intimidation;
3. Member States must ensure proper and effective protection of witnesses before, during and after trials, where the competent authorities deem this necessary;
4. such protection must also be extended to the parents, children and other close relatives of witnesses if necessary in order to avoid any form of indirect pressure;
5. when this protection is instituted, each case will have to be examined individually to determine whether the agreement of the witness and his relatives should be sought;
6. the competent authorities should be able to decide, of their own accord or at a witness's request, that the address and identifying particulars (1) of the witness should be known only to those authorities;
7. if the threat is extremely serious, a change of identity for the witness and, if necessary, for members of his immediate family, may be allowed;
8. one of the forms of protection to be envisaged is the possibility of giving evidence in a place other than that in which the person being prosecuted is situated through the use, if necessary, of audiovisual methods, subject to observance of the adversary principle as interpreted in the case law of the European Court of Human Rights;

B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:

1. In principle, it should be envisaged that the hearing may be conducted under the legal and practical

conditions of the requesting State only;

2. If the legislation of either State allows for the witness to be assisted by an adviser during the hearing, it should be possible for such assistance to be arranged in the territory of the State in which the witness is situated;

3. Translation costs and the cost of using audiovisual methods should be borne by the requesting State, unless otherwise arranged with the State to which the request is addressed.

C. Calls on Member States to carry out an assessment of the implementation of this Resolution in practice and instructs the appropriate bodies to report to it by the end of 1996 at the latest.

III National legislation

- Art. 273A Penal Code on Trafficking in Human Beings, January 2005

By the end of 2004, Art. 273A of the Penal Code came into force and replaced Art. 205A dealing only with prostitution. Art. 273A also covers other forms of THB in accordance with the Palermo Protocol.

Un official translation of article 273A, Pénal Code:

Article 273A Penal Code

Paragraph 1. As guilty of THB will be punished with imprisonment of maximum 6 years or a fine of the 5th category any person who:

1. by coercion, force or some other physical act, by threats of violence or of any other physical act, by extortion, fraud, deception, by abuse of power or abuse of a position of vulnerability, by the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receives another person, for the purpose of exploitation or the removal of organs;
2. recruits, transports, transfers, harbours or receives another person, for the purpose of exploitation or the removal of organs while the other person is younger than 18 years of age;
3. recruits, takes with him/her or abducts a person with a view to inducing that person to make him/herself available in another country for performing sexual acts with a third party for remuneration;
4. by means mentioned under paragraph 1 forces or induces another person to make him/herself available for the performance of labour or services or removal of organs or, under the said circumstances, takes any action which he or she knows or may reasonably be expected to know will result in that other person's making him/herself available for performing those acts or removal of organs;
5. induces another person to make him/herself available for performing sexual acts with or for a third party for remuneration or to make him/herself available for removal of organs for remuneration, or who takes any action which he or she knows or may reasonably be expected to know will result in that other person making him/herself available for performing those acts or removal of organs while the other person is younger than 18 years of age;
6. wilfully profits from the exploitation of another person
7. wilfully profits from the removal of organs of another person when he or she knows or may reasonably be expected to know that these organs were removed under the circumstances mentioned under paragraph 1;
8. wilfully profits from sexual acts of another person with or for a third party for a remuneration or from the removal of organs, while he or she knows or must reasonably assume that the other person is younger than 18 years of age;
9. forces or induces another person by means mentioned under paragraph 1 to benefit him or her from the proceeds of his or her sexual acts with or for a third party or from the proceeds of the removal of his or her organs.

Paragraph 2. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, other forms of sexual exploitation, forced or compulsory labour or services, slavery or practices similar to slavery and servitude.

Paragraph 3. The guilty party shall be liable to a term of imprisonment not exceeding eight years or a fifth category fine, if:

1. the acts, as described in paragraph 1, are committed by two or more persons acting in concert;
2. the person against whom these acts are committed is under the age of sixteen.

Paragraph 4. The acts, as described in paragraph 1 who are committed by two or more persons acting in concert against a person who is under the age of sixteen shall be liable to a term of imprisonment not exceeding ten years or a fifth category fine.

Paragraph 5. If the circumstances mentioned under paragraph 1 result in severe physical harm or mortal danger of the other person, the guilty person shall be liable to a term of imprisonment not exceeding twelve years or a fifth category fine.

Paragraph 6. If the circumstances mentioned under paragraph 1 result in the death of the other person, the guilty person shall be liable to a term of imprisonment not exceeding fifteen years or a fifth category fine.

- **Immigration Circular B9 re Victims of Trafficking in Women**

Enacted On: November 23, 2000 (this was in fact an update, this policy exists in the NL since 1988) By: Ministry of Justice

Legislative Update: June 2005

Explanation of the law: The law applies to both victims of THB and witness-informers (women or men who have not actually become victims of trafficking, but who have vital info relating to a particular crime of THB)

Even with only a slight indication that a woman could be a victim of trafficking, removal from the country should be suspended for three months. This 'reflection period' enables the (wo)man concerned to decide in peace and quiet whether or not to file charges. During this period victims may:

- a. Receive medical and psychological care, shelter, access to legal aid and interpreters/translators. If the woman is without funds, she will receive a social welfare benefit.
- b. Report the crime to the police.
- c. Consult a lawyer about bringing civil proceedings against the traffickers.

The reflection period does not apply to witness-informers. They can however apply for a temporary residence permit when they press charges. If their presence in the Netherlands is necessary, residency will be permitted.

After the reflection period, a victim of traffic in women is eligible for a temporary residence permit if she has filed charges concerning the violation of art. 273a of the Penal Code to the police and is considered necessary for the investigation and prosecution of the case. In both cases, the residence permit is granted only to ensure that the witness remains for the period of the investigation, the prosecution and the trial in first instance and any appeal.

Under the above mentioned conditions, the residence permit is granted unless there is an objection against the alien's stay from a point of view of danger to public peace, public order or national safety. Contrary to the general immigration policy, the lack of sufficient means of support cannot be used as an objection.

The temporary residence permit is granted for a year and renewable. During her stay, the victim is entitled to accommodation, medical and psychological help, legal aid, interpreters/translation, vocational training and education, as well as a social welfare benefit, if necessary. Since June 2005, the victim is also entitled to work, vocational training and education.

The residence permit is linked to the report or trial of a case, so residence is only permitted for the duration of the investigation, the prosecution, and the trial in the first instance and any appeal. After proceedings have ended, the victim is obliged to leave the country, unless (s)he is entitled to a resident permit on other for other reasons (e.g. stay with partner, humanitarian grounds).

If the victim applies for a permanent humanitarian resident permit, B9 stipulates that the following aspects should be taken into consideration:

- Risk of reprisals against victim and her family and the level of protection the authorities in the country of origin can and are willing to provide if necessary
- Risk of persecution in country of origin, e.g. for prostitution
- Possibilities of social reintegration in country of origin, taking into account specific cultural background and

coercion into prostitution of the victim, as well as permanent breakdown of family relations, public opinion on prostitution and national policies re prostitution and THB.

The Immigration Circular B9 explicitly details the obligations of STV and the police:

- The police has to report all cases of THB to STV, even if there is no need for shelter for the victims.
- STV has to organise and coordinate the social assistance to all victims of THB who have been reported to the organisation. In order to fulfill this obligation, STV has instigated regional support networks including case managers to which clients are referred. In lack of regional networks/case manager STV will assume responsibility for the social assistance provided to the client.
- **Furthermore, the Dutch government have:**
- Appointment of a National Rapporteur on Trafficking in Human Beings
- Appointment of a national coordinating public prosecutor in trafficking in human beings
- Establishment of a special Dutch Police Project Prostitution and THB. Every police force has appointed a special contact person on THB, several working groups have been established on specific topics and several specialised police teams on prostitution and THB have been formed.
- Specialised training carried out by the Dutch Training School for Police Officers for local law enforcement officials who become members of prostitution and THB police teams
- Specialized prosecutors and specialists in the immigration office.
- Federal funding to social service providers
- Appointment of a coordinating civil servant in the Ministry of Foreign Affairs on policy re THB. The issue of THB is also covered by the Ministry of Justice.
- A National Action Plan on THB, June 2004 to monitor the progress in anti trafficking measures and cooperation between organisations. Implementation is evaluated each year.
- **Identification of THB**

The Procurators- General have set up guidelines relating to investigations and prosecution of THB (1987, 1989, 1995). The most recent instruction was published in 1999 "Instruction of approach to trafficking in human beings and other forms of exploitation in prostitution "(aanwijzing aanpak mensenhandel en andere vormen van uitbuiting in de prostitutie). An annex to this Instruction is, among others, a list of criteria/indicators of THB such as: lack of proper documents, illegal stay in the country of origin, not having paid for the journey oneself, no possession of own travel documents, having to hand over the largest percentage of the income, having to work under all circumstances and for disproportionately long hours, blackmail or threat of family in country of origin and threat or use of violence..

The Dutch 'Police Project Prostitution and THB' (1999 – 2004) drew up a supplementary list of criteria/indications following the ban on brothels and the new/legal prostitution, such as: working under the authority of a third party, earnings far below market values, combination of factors like non EU member + marriage to a Dutch citizen + working as a prostitute (legal) and the lack of housing/accomodation in the Netherlands

Information about STV

Stichting tegen Vrouwenhandel (Dutch Foundation against Trafficking in Women, STV)

Governmental

Non-governmental

Task: STV is the national reporting centre re THB. Its HelpDesk has four main tasks:

10 to arrange shelter for victims;

11 to maintain contact with and offer expertise to other professionals working with victims;

12 to maintain regional networks of support to victims of THB and set up new networks;

13 to record data on victims of THB who are reported to STV. STV provides this info to the National Rapporteur on THB and other interested parties.

STV does not run its own shelter, but cooperates on the services mentioned below with her partners in the field. After STV has arranged shelter, clients are referred to regional networks who each have their own case managers who will take over responsibility for the client. All services provided to clients are then carried out by organisations (shelter, case manager, lawyers, etc.) in the network. If there is no network available, the client falls under responsibility of STV.

Services are provided from the moment a woman is taken out/leaves the trafficking situation until the moment of return to her home country. We have hardly any knowledge of what happens to women once they have returned, except for some cases referred to or by us to or by the La Strada network.

Apart from the HelpDesk, STV also provides:

14 coordination of the La Strada Program;

15 lobby & advocacy on the issue of THB, on national and international level;

16 training, info and consultation to other parties, e.g. media, on national and international level.

Services provided:	During first 3 months	After 3 months
Example service	Yes	no
Medical help	Yes	Yes
Psychological help	Yes	Yes
Legal aid	Yes	Yes
Legal documents for travelling	Yes	Yes
Establish contact with family/friends	Yes	Yes
Financial means for first survival	Yes	Yes
Accommodation	Yes	Yes
Vocational training	Yes	Yes
Employment		
Buddy project		
Other: ...		

STV cooperates with: BlinN, Rode Draad, Atalantas, Mr. A. de Graaff Stichting, TAMPEP, Religieuzen tegen Vrouwenhandel, GGGD Amsterdam, Clara Wichmann Stichting, BNRM, IOM, IND, public prosecutors, lawyers

Also cooperates with shelters throughout the NL, police, Project Prostitutie en Mensenhandel van de Nederlandse Politie, lawyers, local and national government

Cooperation is generally pleasant, both with NGOs and Gos, although there are sometimes problems with finding shelter for clients and with police who do not report to STV. Cooperation is both concerning victims (coordination of social assistance) and more regular with regard to theme's or events such as support of the Experts Group of the European Commission and the Dutch EU presidency in 2004, special groups are formed who meet regularly. There is also a monitoring group for the B9 implementation, a monitoring platform on prostitution legislation and regular meetings in the regional relief networks.

Cooperation in the field of:

BlinN, Rode Draad, Atalantas, TAMPEP, GGGD Amsterdam, Clara Wichmann Stichting, IOM: referral of clients, info exchange, joint actions

Religieuzen tegen Vrouwenhandel, Mr. De Graaff Stichting: info exchange, joint actions

BNRM: info exchange, STV transfers collected data to BNRM

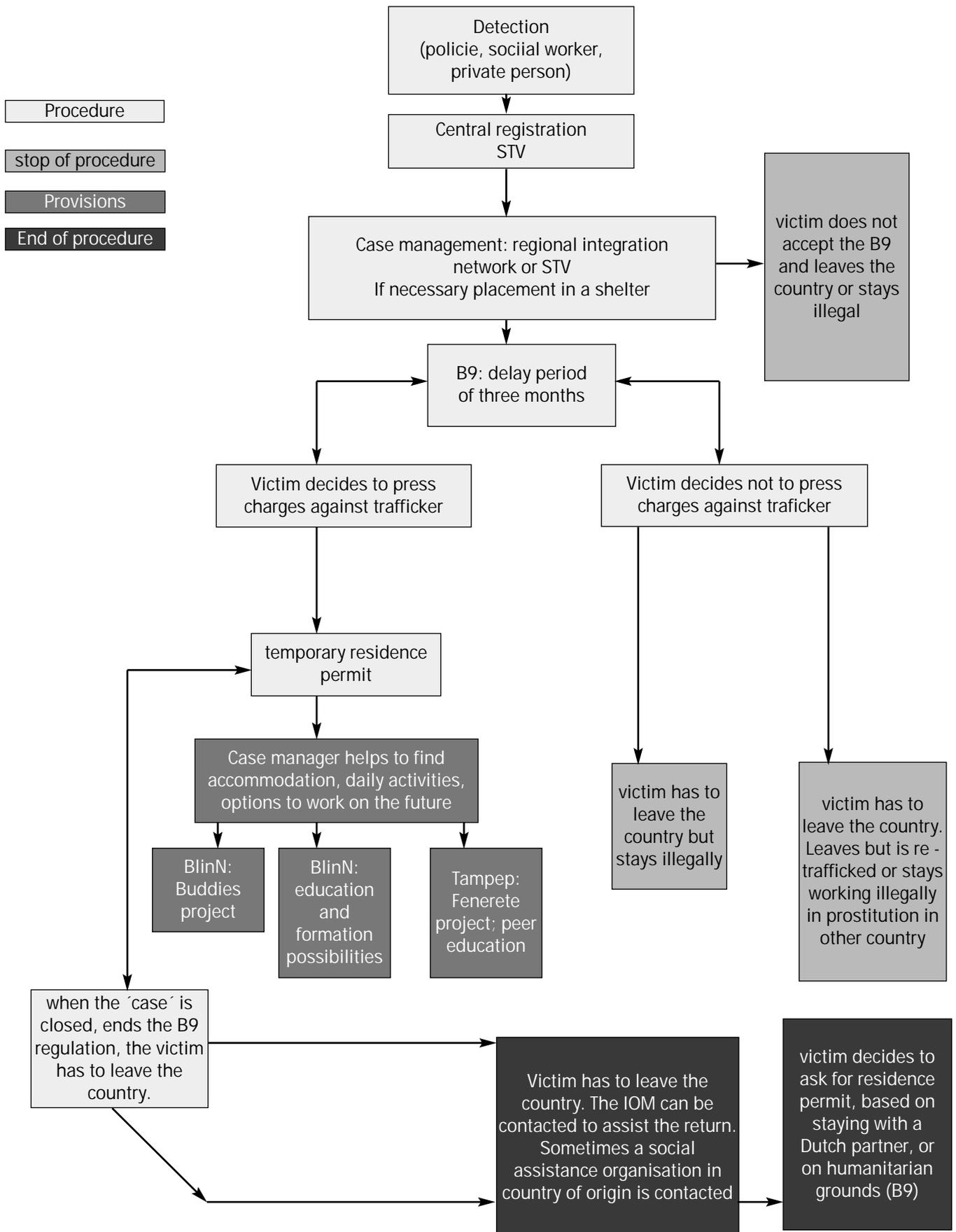
IND, public prosecutors, lawyers, local government: hardly any direct cooperation. Sometimes requests for additional info

Shelters: referral of clients, provision of expertise by STV. Problems: lack of beds and sometimes refusal/reluctance to accept victims of THB. Also sometimes lack of expertise within the shelter re the issue of THB.

Police: from a research carried out in 2002, it appeared that 30-35% of victims of THB in 2000 - 2002 who were reported to the police were also reported to STV. This low % was partly due to low accessibility of the HelpDesk in this period. It is estimated that this % will have risen in 2003 and 2004, but no data available yet.

National government: info exchange, provision of expertise by STV

What happens when a victim is identified in the Netherlands?



The TIW HelpDesk

The Foundation Against Trafficking in Women maintains its function as the national expertise centre. Some of the core activities are restructured in the TIW HelpDesk:

- National reporting centre for (possible) cases of TIW
- *National co-ordination of complete and coherent support for victims of TIW*
- *Registration of data concerning reports of TIW and support programs offered*

HelpDesk procedures:

The first report of (possible) cases of TIW is usually done by professional groups, involved in identifying TIW (*casefinding*). Based on this report, information regarding the specific situation is gathered in order to determine the problem areas (*assessment*). Tuned to the needs of the situation, a plan of action is put together in which the most urgent and needed support is phrased (*planning*). In most cases that means save shelter /accommodation for the (possible) victim involved, medical and emotional support (trauma counselling) as well as judicial and material support (guidance through the criminal proceedings, protection of their position and interest and provide basic needs). The professional groups, who need to be involved in this individual support program, are selected and linked to the (individual) case and each other (*linking*). If the case can be transferred / referred to a regional relief network (professional structure), the regional casemanager will be alarmed and takes over. Otherwise, the Foundation Against Trafficking in Women will act as a casemanager.

When the (possible) victim of TIW is (already) accommodated, a clarifying interview will take place in order to determine the (possible) victims' specific needs. Based on these, a complete and coherent support program can be put together, containing support elements tuned to both the situation and the person.

In other reported cases, only minor interventions are needed or performed instead of a complete and coherent support program. In some cases, only information and consultancy is asked and given. As the national expertise centre, the Foundation Against Trafficking in Women aims at providing both (possible) victims of TIW as the professional groups involved in identifying TIW and offering support to the victims, with proper and expert advice.

All the reported cases are being registered, if wished so, anonymously. Relevant data is extracted from this and translated into spearhead actions concerning development of policy, methodology, support programs, prevention programs, training programs etc. Naturally all personal data regarding the victims identity or specific situation is anonymised in order to secure the safety of the women involved and in correspondence with the Dutch legislation on confidential information of private persons.

Note: *Organisations and individuals report possible cases of trafficking voluntarily. Therefore, the registration of the Foundation Against Trafficking in Women depends on the active effort of both organisations and individuals and is never absolute or complete*

Flowchart of the Help Desk procedures:

