

The Vienna Forum to fight Human Trafficking
13-15 February 2008, Austria Center Vienna
Background Paper

006 Workshop: Criminal Justice Responses to Human Trafficking

This Background Paper has been reproduced without formal editing.

The designation employed and presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area of its authorities, or concerning the delimitation of its frontiers or boundaries.

Its content does not necessarily reflect the policies or views of UNODC and of the donors.

**THE VIENNA FORUM TO FIGHT HUMAN TRAFFICKING
13-15 February 2008**

Vienna, Austria

BACKGROUND PAPER

**WORKSHOP 006
CRIMINAL JUSTICE RESPONSE TO HUMAN TRAFFICKING**

<u>INTRODUCTION</u>	2
<u>THE UN PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN</u>	2
<u>THE IDENTIFICATION OF TRAFFICKED VICTIMS</u>	2
Initial Identification of Indicators	3
Corroboration of Indicators	3
Further Action	3
Reflection Periods	4
Review of Actions	4
Conflict of Interests	5
<u>INTERVIEWING VICTIMS OF TRAFFICKING</u>	5
Planning and Preparation	6
Engage and Explain	8
Account	9
Closure	10
Evaluation	11
<u>THE USE OF INTERPRETERS</u>	11
<u>VICTIM-WITNESS ASSISTANCE AND PROTECTION WITHIN THE CRIMINAL JUSTICE SYSTEM: INCLUDING THE TRAUMA AND HEALTH OF VICTIMS</u>	12
Responding to the Trauma and Health of Victims	14

INTRODUCTION

Criminal justice responses to human trafficking will be discussed in this paper to reflect the workshop objectives that will be addressed in the role play. These objectives include; the identification of trafficked victims, interviewing the victims, the use of interpreters in human trafficking investigations and victim-witness assistance and protection within the criminal justice system, including potential reactions to trauma and the health of victims of trafficking. When responding to human trafficking within the criminal justice system, it is important to have the best interests of the trafficked victim at the forefront of all activities. A victim-centred criminal justice response to trafficking is most effective in terms of achieving a successful prosecution of the traffickers and protecting and supporting the human rights of the trafficked victim. Prioritising the well-being of the trafficked victim and their recovery from a trafficking ordeal is compatible with achieving the desired results in a criminal prosecution.

THE UN PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (The Trafficking Protocol), provides a framework for the development of a national response to human trafficking for Member States. The relevant Articles of the UN Protocol relating to criminal justice responses are Article 5 on 'Criminalisation' and Articles 6-8 concerning measures for the protection and support of trafficked victims.

THE IDENTIFICATION OF TRAFFICKED VICTIMS

The identification of a trafficked victim is vital to ensure that they may be granted access to protection and support services. If a trafficked victim is not identified as such, he/she may be treated as an illegal immigrant if they are in the country illegally, or he/she may be left without resources, protection or appropriate support in order to recover from the trafficking ordeal. This is to the detriment of the trafficked victim and to the trafficking investigation. Without access to protection and support services, trafficked victims may not recover to gain the sufficient confidence and security to co-operate with law enforcement officials in their criminal investigations. Without evidence and testimony from trafficked victims, it is often difficult to prosecute the traffickers with full effect.

Proper identification of trafficked victims can be broken down into four stages and can be applied to both adult and child victims of trafficking. The four stages will be discussed below and include; i) initial identification to assess if one or more indicators of human trafficking is present, ii) enquiries to corroborate these indicators, iii) further action which may include offering victims access to recovery and support services, evidential interviews or arrest and iv) active review of the action to establish that the indicators are corroborated further or to assess if further indicators of trafficking are present.

i) Initial Identification of Indicators

Indicators are a fact or sign that suggests the possibility of human trafficking and can be discovered through events associated with the criminal activity, statements from the victim or signs of harm associated with trafficking. There are many indicators of trafficking. Some are obvious, visible signs expressed or displayed by the victim. For example the victim may openly express the belief that they have been working against their will or they may act in a manner of distrust towards the authorities. Other indicators may not be so obvious and may not reveal themselves until a later stage in the investigation. Every trafficking situation will be different and the indicators present will differ accordingly. Some cases of trafficking may be obvious from the visible signs that are shown by the victim, akin to trafficking. Other trafficking cases may present circumstances which cause the investigating officer to feel uncertainty or question whether the victim has experienced a situation of trafficking. If an investigating officer suspects initial indicators of trafficking, further investigation should go ahead. The presence or absence of initial indicators should not mean that trafficking has been established or discounted.

Initial identification of indicators is important to determine if a victim has been trafficked or if the officer suspects circumstances of human trafficking. As discussed above, indicators may be visible and obvious (objective) or they may be hidden and possibly revealed at a later stage of the investigation (subjective). When assessing initial indicators of trafficking, it is important for the investigators to consider the circumstances surrounding the victim. For example, investigators could ask themselves; “how did he/she come to my attention?” “Where was he/she found (location)?” “What was he/she doing when they were discovered?” “What kind of physical and emotional state were they in?” “What do I know about him/her?” “What might others know about this person’s situation?” When asking themselves simple questions like these at the time of initial identification, investigators may find that indicators of trafficking become obvious. If initial indicators are present, the next stage of identification should follow.

ii) Corroboration of Indicators

If indicators have been identified, the next stage is to look for other information that supports the indicators. Corroborating indicators can help to reveal the nature of the trafficking case and provide intelligence and information in order to make decisions on what action to take next. Once again, corroborating indicators will be different for each case given that each trafficking case will most likely involve a unique set of indicators. Corroborating the initial indicators can be achieved by a number of methods from making specific overt or covert enquiries to asking the trafficked victim questions. Following the enquiries a decision on further action will need to be made, the course of action will depend on the nature and circumstances of the particular trafficking case and the well being of the trafficked victim.

iii) Further Action

Following the corroboration of indicators, there is a range of further action that can be taken depending on the nature of the case. It is important to determine which course of action is most appropriate for the particular case. Further action can include; starting or continuing a formal investigation, a formal evidential interview of a person believed to be a victim of trafficking or an interview to declare if a person should formally be declared a victim of trafficking, a raid/operation to rescue a victim from the place of exploitation, arrest of suspects and other enquiries such as conducting investigations into how a person was recruited. At this point of the identification stage, any identified victim should be referred to protection or support services including safe housing, medical, psychological and legal assistance and other welfare benefits. If a victim is identified, a period of reflection should be offered to them regardless of their immigration status. A reflection period allows for the victim to remain in the destination or transit country to recover from their trafficking ordeal and to make an informed decision on whether or not they wish to cooperate with law enforcement officials in their investigations.

Reflection Periods

The issue of a reflection period for victims of trafficking has been contentious for many countries of destination and transit when they have come to develop a policy response to human trafficking. The purpose of a reflection period is to allow a trafficked victim to recover from the exploitation they have suffered and to make a decision whether to co-operate with law enforcement authorities in their criminal investigations or not. Reflection periods are largely directed at, but not restricted to, those who are in the country of transit or destination illegally. Reflection periods should not be made conditional on a victims' willingness to cooperate with law enforcement authorities and victims should not be deported during this period. During the reflection period, victims should be able to access protection and support services including secure accommodation, access to medical and psychological assistance, translation and interpretation services if required, provision of information relating to their case in a language that they understand and legal assistance.

iv) Review of Actions

It is necessary for the investigating officer/s to review their course of action in the identification of trafficked victims in order to check that initial indicators are present, that the indicators have been corroborated and to check if further indicators are present. The review of actions may also reveal that initial suspicions of trafficking were not founded, or alternatively that additional information and intelligence relating to the trafficking case is discovered.

Conflict of interests

At any point during the identification process, conflicts of interest may be present amongst the different parties involved in the trafficking investigation. This is particularly the case concerning the treatment of the trafficked victim. For example, it is often the priority of law enforcement officers to have organisational objectives to detect and prevent the crime. Arresting and prosecuting may therefore be at the forefront of law enforcement objectives in trafficking cases. NGOs may not hold the same view and are more likely to have the best interest of the trafficked victims' protection and well being as their primary objective in trafficking cases. Another conflict of interest that may arise concerning trafficked victims is between the police investigators and immigration authorities, particularly concerning victims who are discovered to be in the country of transit or destination illegally. Immigration will often have deportation or removal of the trafficked person as their priority response, whereby law enforcement will more likely recognise the value of the victim to the criminal investigations and support them to stay in the country for the duration of the criminal investigation at the least.

Establishing terms of reference between organizations involved in human trafficking cases is one way in which to overcome these conflicts of interests, coordinate efforts and establish distinctive roles of each organization. National Referral Mechanisms (NRMs) are also useful when a trafficked person is identified so that they may be afforded the best treatment and so that correct and effective criminal investigation procedures can be followed and maintained.

INTERVIEWING VICTIMS OF TRAFFICKING

The interview should ultimately serve the law enforcement objectives of the trafficking case and be used as a method of gaining evidence and intelligence in order to achieve a successful prosecution. The purpose of an interview is to establish the full facts of the case, to use the facts to corroborate the victim's story and establish his/her credibility as a witness, to use the evidence to identify, arrest and successfully prosecute the traffickers and to continually assess the risk to the victim and those associated with the victim.

When interviewing trafficked victims, good practice interview techniques are necessary in order to achieve high quality information and intelligence that can be used to support a proactive prosecution case. Employing good practice interview techniques will increase the likelihood that a credible prosecution case can be developed. Without a statement or testimony from a victim, law enforcement authorities are unfortunately unlikely to have a case. Interviewing a trafficked victim requires a lot of careful consideration. In particular the needs, safety and well being of the victim should be a priority at all times. Trafficked victims are vulnerable and should be treated as such. They should be interviewed in a sensitive manner, ideally by a trained and specialised interviewer.

The PEACE interview model has been developed as a good practice tool for interviewing trafficked victims as vulnerable witnesses. PEACE stands for; **P**lanning and preparation, **E**ngage and explain, **A**ccount, **C**losure, **E**valuate. Each of these stages of the interview process will be explained in more detail below.

Planning and Preparation

There are many components that need to be considered and checked when planning and preparing to interview a victim of trafficking. Strategic and tactical level planning are the two forms of planning that are required of the investigating officers when they are about to interview a trafficked victim. Strategic level planning includes for example, the availability and use of resources and equipment including staff and their abilities to interview, recording equipment and the possible use of translators. Tactical level planning concerns the management and conduct of the interviews. It is important that investigating officers use the best resources that they have and those that are available to them.

It is important to find out as much about the case as possible before conducting the interview. An interview cannot be conducted without planning and an interview cannot be planned if nothing is known about the case. It is useful for the investigating officers to find out information relating to what they already know about the victim, for example, what language the victim speaks, what country they come from, the culture and state of development of that country, where they were found, how old they say they are. The information gained from such enquiries can help to develop a general profile of the case and provide a foundation for interview planning.

At the planning stage, the safety and well being of the victim must be addressed through a risk assessment. This may require investigating officers to ask very direct questions of the victim at a very early stage in order to establish if there is any risk to the victim or others associated with the victim including other victims and the victim's family. At this stage protection and support services should be made available to the victim. They may need to have a psychological assessment before the interview commences. Their basic health should also be assessed. Some victims should be offered alternative clothing, meals should be planned for them and suitable and safe accommodation should be organised. Cultural and religious observances should be accommodated if need be. If victims are able to access a high level of protection and support, they are more likely to recover from their ordeal, develop trust towards the investigating officers and agree to cooperate with the criminal investigation.

Practical considerations in planning for the interview are also important. This includes the location of the interview, recording equipment for the interview, who will conduct the interview, the duration of the interview, and the need for a translator. When considering the location for the interview, it is important to provide a comfortable setting for the victim. For example, a special interview suite may be available to investigating officers that are welcoming and comfortable. If a victim is interviewed in a location that they are not familiar or comfortable with, they may become distressed and/or distracted which may then impact upon the purpose and quality of the interview.

The witness should be given a choice as to the location of the interview; however, interviews should not take place at the victim's home or place of residence. The location should be safe, secure, and free from distractions and intimidation.

Recording the interview can be done in a number of ways. These include an audio recording, a video recording or written recording. The method employed depends on the availability of equipment, the comfort of the victim and domestic legal requirements. It is most important that the victim understands why recording equipment is going to be used and that their informed consent is given before the recording begins. Although recording the interview is important and has the benefits of making the interview easier, reducing legal challenges in court and improving the quality of the witness testimony, it is not the most important aspect of interviewing. Interviewing is a human process that should not rely on this technology.

Good practice recommends that it is ideal to have two interviewers in a trafficking investigation. One interviewer should be given the task of developing the victim's account and pose questions, whilst the other should act as an observer, taking notes on the progression of the interview as it happens. Ideally, law enforcement officials who are specialised and trained in interviewing vulnerable persons should be employed to interview trafficked victims. Those who are not specially trained may not have an understanding of the sensitive nature in which these persons must be treated in an interview situation. The gender of the interviewer is also something that should be considered. Whilst there is no direct evidence that the particular gender of an interviewer guarantees better or worse interview outcomes, some countries have specific legislation stating that female vulnerable witnesses are required to be interviewed by female officers. However, some victims may relate better to members of the opposite sex. In keeping with the interests of the victim, they should be given the choice as to which gender officer they wish to have conducting the interview. When interviewing a trafficked victim, the interviewers will need to be aware of and use the language and concepts that the trafficked victim understands and make a concerted effort to work with the victim's capabilities and not with their limitations.

The duration of interviews of trafficked victims is something that must be considered when preparing and planning for an interview. This includes planning for breaks. It is possible that the interview will take more than one day given the vulnerability of the victim and the trauma they have suffered. However, the number of interviews should be kept to a minimum. Legislative provisions may allow for intermediaries to be present during the interview in a supportive and reassurance role for the victim. Investigators should establish whether the victim would like to have an intermediary present during the interview and if so, the intermediary should be clearly briefed as to their role in the interview. When employing an intermediary, investigating officers should use caution and be very wary of using the victim's friends as intermediaries. It is possible that such 'friends' will be associated or linked with the traffickers. Intermediaries that are more neutral and may be used could be NGO and social services representatives. If this is the case, protocols and agreements outlining the roles of such representatives should be established with the investigating authorities. It is important to ensure that the intermediary is able to cope with the possible distress of the trafficked victim, the victim's account of the trafficking situation and that they

are able to commit to the time it takes for the whole interview process given that these interviews may take a matter of days. This helps to stabilise the victim and build trust if the presence of the same intermediary remains constant. The use and role of translators in the interview may be necessary and will be explained under the next main section of this paper.

Once a clear and comprehensive interview plan has been drafted, the interview may go ahead. The victim should freely give their consent before being interviewed and should be briefed on why they are being interviewed and the purpose of the interview. They should be introduced to all persons who will be present in the interview room along with a clear explanation of each person's role and reason for being present. This is essential in building the victims trust of the authorities. When conducting the interview, it is important to keep victims separate from each other and from suspects at all times. This may particularly apply at the initial interviewing stage. The victim should be able to sit where ever it is they feel most comfortable and allowances should be made for any furnishings to be moved around the interview room if necessary. The first interview should be kept very general, allowing for the victim to give a 'free recall' account of their situation. This is where the victim recounts their ordeal without interruption or questioning. The interview can then progress to open and closed questioning where appropriate.

Engage and Explain

It is important for the investigating officer to positively engage with the victim whom they are interviewing. Given their experience of having been trafficked, victims may react towards authorities in an unpredictable way and display distrust towards them. A rapport must be built in order to achieve the victim's trust and to provide them with comfort and security when they are giving their account. This can begin before the interview commences where the victim is introduced to the interviewing officers informally. At this time neutral subjects can be discussed that are not related to the investigation, however the reasons for the investigation can be raised. Creating a positive rapport before the interview begins has benefits for the interviewing officer/s in the planning and preparation of the interview. It allows them the chance to assess the victim's preferred method of communicating, the chance to explain the interview process to the victim and to establish if the victim would feel comfortable for the interview to be recorded. This can also help the interviewer to feel more relaxed and comfortable to interview the victim. Developing a positive relationship between the interviewing officer/s and the victim helps the victim to feel at ease in the interview and increases the likelihood that the victim will provide a high quality account. At each stage of the interview process, the victim should be given a clear explanation of how the interview is progressing and the reasons why they are being interviewed. The interviewer should maintain respect, sympathy and understanding of the victim during the interview and particularly during questions relating to personal matters. At no stage of the interview should the interviewer suggest to the victim that a particular offence has been committed or that a particular person has been responsible for any offence. This is important to the success of the criminal prosecution case and to the value of the evidence provided by the victim.

Engaging with the victim goes further than rapport and explanations. It is important for investigating officers to be attuned to the victim, taking note of the victim's behaviour, bodily expressions and communication. If the victim appears to be experiencing levels of discomfort, it may be necessary to take a break or provide further explanation of why their account is important. It is also necessary for investigating officers to keep a check on each other's behaviour and the behaviour of those who may be present at the interview including intermediaries and translators. Investigators should act in a normal manner as the situation will allow but should also be sensitive to the needs of the victim and how the interview is impacting upon their well being. Interviewing officers should maintain a sensitive manner during the interview using non-sexist and non-discriminatory body language, verbal communication and attitudes towards the victim. A friendly and helpful manner is often useful and appropriate and signs of embarrassment, unease and anxiety should not be displayed. The pace of the interview may be slow. Interviewers need to be patient and allow the victim time to understand what is being asked of them and give the victim time to prepare a response. The interview should progress at a pace set by the victim and breaks should be provided when necessary.

Account

It is unlikely that a victim will give a good quality account of events if a positive rapport has not been established with the interviewing officer/s. Once the interview begins, the victim should have the chance to give their account of the trafficking events in their own words. Victims may assume that the interviewing officers know what has happened to them and may therefore not be so forthcoming with information in their account. It is important for interviewing officers to make it clear that they do not know what has happened to the victim and can only find out once the victim has told them through their account. It is also useful for investigators to explain to the victim the need and value of a full account without putting pressure on the victim. At the first stage of interviewing, questions should be of a general nature in order to reaffirm a positive rapport and allow the victim to feel comfortable. Inquiries at this point are of a non-specific nature. If the victim responds positively, then the interviewing officers should encourage the victim to give a 'free recall' account of their trafficking ordeal without being interrogated, interrupted or challenged.

Risk assessment is crucial throughout the progress of the interview. Risk to the trafficked victim and others associated with the trafficked victim may become clear at the 'free recall' stage and should be responded to appropriately. If the victim does not provide information that is relevant to the investigation during the first interview, consideration should be given as to whether the interview continues. If the interview is stopped, the needs of the victim should be considered and a review of what has been told by the trafficked victim should take place. Through the process of review, some important information may be uncovered that could be of benefit to proactive investigations. Even if the information provided by the victim is not of use to support the criminal court case, it may still be useful as intelligence.

As much control as possible should be given to the trafficked victim in the interview process. When providing information and witness statements, victims should be in a position to control the pace of the interview, including the need for breaks. Giving the victim a degree of control can help to instil a feeling of empowerment, giving them the confidence to provide a good account. It is important for interviewers to exercise patience and understanding of the difficulties the victim may experience when being asked to recount the traumatic events they have suffered as a result of being trafficked. It is not uncommon for trafficked victims to forget certain details from the event because of painful memories and symptoms of trauma. Answers to questions may often be 'I don't know' or 'I don't remember' and this should be expected and understood by the interviewer. Interviewers should avoid interrupting the victim during a recount as it takes power and control away from the victim. Questions should preferably be kept open ended allowing the victim to respond in an unrestricted manner which then gives them control over the flow of information. Specific or closed questions should only be asked to add to the detail of the information already given. Leading questions that imply an answer should be avoided when interviewing trafficked victims. The interviewing officer should be cautioned and exercise restraint if they begin to lead the witness or question in a manner that suggests certain answers. Such a style of questioning will lead to arguments in court that the evidence was 'suggested' to the witness by the interviewees which then impacts on the quality of the evidence provided by the trafficked victim. Questions should develop from the information the trafficked victim has given rather than be based on assumptions of the interviewing officer. The response to questioning will be different in every case. Not every victim will respond well to 'free recall' or to closed questioning and others will. Some may respond well to open but not closed questioning and vice versa. It is very important to remain attuned to the victim and their level of comfort as the interview progresses.

Closure

The interviewing officer must ensure that the interview has a closing stage. At this stage of the interview, the victim should be left in a positive state of mind. This is the case even if the victim has provided little or no information. No praise or congratulations should be given although the victim should be thanked. Good practice promotes that the victim should be given a copy of the formal written statement they provided and be allowed the opportunity to read through it and lastly, sign it. The victim should then be given an explanation of what is to happen to them next. A contact name and phone number of the investigating officer/s should be given to the victim should they wish to provide any further information at a later date.

It is good practice to allow the victim to ask any questions of the interviewer/s. If victims are in need of protection and support, this should be arranged and offered to them. Victims may have found the interview distressing in addition to the trauma they have suffered as a result of being trafficked. No promises should be made to victims that can not be kept, especially in regard to residency permits, that the witness will not have to give evidence in court and/or that a person will be charged with causing offence against the victim.

Evaluation

It is important to conduct an evaluation of the interview once it has been concluded no matter how short the interview was. At this stage the interviewers should consider whether the aims and objectives of the interview have been achieved and how the information obtained from the interview will impact upon the investigation. Referring to the interview plan will help to evaluate the interview. Judging from the interview, the investigating officers should also discuss if any improvements could be made to their interviewing techniques in the future. Further inquiries may need to be made and if another interview is to be conducted, certain points may need to be followed up or clarified. Also at this stage, the victim should be assessed for any risks to them and those whom they are associated with, including their family. The mental and physical condition of the victim should also be assessed considering the interview and the experience of giving any kind of account may have been distressing for them.

THE USE OF INTERPRETERS

It may be necessary to employ interpreters to assist in the conduct of the interview if the trafficked victim is unable to communicate with the investigating officers in a common language. The role of the interpreter is to facilitate communication between the victim and the investigating officers who could otherwise not communicate in the absence of the interpreter. When employing the service of an interpreter, investigators need to be aware of the interpreter's credentials and status, particularly in regard to their relationship with the victim. It is good practice to use an interpreter that is independent from the investigation and one that is familiar with the investigative and interview procedures. It is important for them to have been vetted psychologically and emotionally 'fit' for their role in the interview. It should also be a consideration that the interpreter is culturally, ethnically and/or religiously suitable to work with the victim. Lastly, it should be established whether there is a conflict of interest between the victim and the interpreter. The interpreter may be known by the victim and the investigators should endeavour to find out if such a connection exists and the nature of the relationship if one appears to be present. Traffickers have been known to infiltrate the investigation process through posing as interpreters or through having associates pose as interpreters. If a conflict of interest is sensed by the interpreter at any time during the investigation, it should be reported to the law enforcement officers immediately.

Interpreters should be allowed time to prepare for the interview and should be briefed on the investigation and purpose of the interview. It is also a necessity that interpreters are aware of their role in the interview process and do not deviate from it. Interpreters are not responsible for conducting any part of the investigation or questioning the witness. They are not in a position to give advice to the victim or advocate for them. This is the role of social service support that should be offered to the victim separately. Interpreters are simply available to translate the questions from the investigating officers and the answers from the trafficked victim as literally as possible. The trafficked victim should be introduced to the interpreter before the

interview begins and understand their part in the interview. In keeping with the prioritisation of the victim's interest, the victim must be able to work with the interpreter and it is preferable that the same interpreter work with the investigation throughout the duration of the case to provide consistency and stability for the victim.

The best interests and safety of the interpreter should also be a consideration. Interpreters may be at risk of intimidation or threats from the traffickers, even if they are not connected to them. Traffickers can sometimes approach the interpreter as a way of infiltrating in to the investigation and the interpreter should be made aware of this possibility. In some circumstances, interpreters may need to be accommodated in safe housing and every effort should be made to address any concerns the interpreter may have regardless of how trivial it may be. Interpreters should avoid becoming emotionally or personally involved in the case and should have access to psychological support if they need it because of the distressing material the interview may reveal.

Good practice by interpreters is to only conduct translation between the victim and the investigators during the interview in the presence of both the investigating officers and the victim. Interpreters should never be left alone with the victim. When engaging in a translation, the interpreter should not use 'third person' form, should not change the structure or wording of a question and under no circumstances, should they request a confidential discussion with the victim. Interpreters should translate directly and as literally as possible and translate only one question at a time. If the interpreter experiences difficulty in understanding what one of the parties is saying, they should be free to interrupt the interview to seek clarification. Another point to consider for interpreters is that victims may not give an answer that matches the question. The role of the interpreter here is to explain to the investigators that although their translation of the answer is correct, the question may not have been correctly understood by the victim. All of these points of conduct should be made clear to the interpreter when they are briefed by the investigating officers before the interview commences.

VICTIM-WITNESS ASSISTANCE AND PROTECTION WITHIN THE CRIMINAL JUSTICE SYSTEM: INCLUDING TRAUMA AND HEALTH OF VICTIMS OF TRAFFICKING

The terms victim and witness are not necessarily two of the same and will have different meanings between different jurisdictions. A person may be declared a victim after a judicial process. Once victim status is secured following the judicial process, the victim may have access to protection and support. In other jurisdictions, the term victim is used as a general interpretation of a person's status. The term 'witness' has a more limited meaning and relates to a person giving testimony in court, a person who has information about the particular crime and/or a person making a written statement or giving evidence in court. Different terminologies will be used by different jurisdictions.

For trafficking in persons investigations, victim-witnesses are generally the most vulnerable witnesses in the case. Measures for the protection and support of trafficked

victims should therefore be developed and implemented in every jurisdiction to support the criminal justice system. The safety and support of the victim during the criminal investigation is the priority given their vulnerability and the trauma they have suffered as a result of being trafficked. Protection and support for the trafficked victim should be made accessible as soon as the victim has been identified and be extended to their involvement as a witness in the criminal justice system. Planning for the safety and security of the trafficked victim-witness in the criminal court proceedings is necessary. Measures need to be taken to ensure that the security and safety of the victim-witness is maintained. Investigating officers and prosecutors each have a role to play in this respect.

Investigating officers are in a position to consider a wide range of witness protection and assistance measures in preparation for the court proceedings. A plan should be developed for the venue of the criminal trial and necessary arrangements should be made for the protection of the victim-witness. The victim-witness should have the opportunity to meet with the prosecutors so that the criminal court proceedings can be explained. Interpreters may be needed at this point. The victim-witness should be shown the court room and the entry and exit points by which they will enter and leave. If the victim would prefer, a screen positioned to shield them from the court room to ensure their anonymity should be arranged. If this cannot be arranged, other methods for providing testimony or evidence may be considered, for example, using a video or audio link to the victim-witness who may not wish to be present in court. If the victim-witnesses requires social support for the duration of the criminal court proceedings, arrangements should be made to allow for the presence of an NGO witness supporter.

All efforts should be made to keep the witness separate from the suspect/s at all times. Pre trial detention may be ordered against the suspected traffickers and victims should be accommodated in secure shelters. Upon arrival at the court house, separate rooms should be made available for the witnesses and suspects. Once the trial has begun, victims should enter and leave the court room via secure routes that are separate from the entrance and exit used by the traffickers. For prosecutors and the judiciary, it is important that they take responsibility for the safety and well being of the victim during the criminal court proceedings. The court proceedings should be set in a secure environment for the trafficked victim if they are to act as a witness. Alternative arrangements may need to be made for the court proceedings in order to maximise the victims safety and security. For example anonymity may be appropriate for some victims, video or audio links or screened may be necessary for victims to keep them out of view of the traffickers, secure and controlled routes in and out of the court room may need to be established. When the victim-witness is required to give evidence, it may be appropriate for the judges, defence and prosecution lawyers to remove their gowns and wigs to avoid intimidation or discomfort of the victim.

The reality of the criminal court process is that in both civil and common law systems, the evidence provided by the victim-witness is going to be scrutinised and tested either by the judge or by the process of cross examination. It is therefore important that the investigating officer corroborates the evidence provided by the witness and further, prepares and explains to the witness what is involved in the cross examination process.

It is good practice on the part of the investigating officer to prepare the victim-witness for the fact that what ever he/she has stated will be challenged in court.

Responding to the Trauma and Health of Victims

Victims of human trafficking have often suffered from multiple kinds of trauma, which in some instances, may have begun before the victim was trafficked. Many trafficked victims come from unstable families and home environments where abuse has been inflicted against them in their day to day lives. Suffering such abuse can be symptomatic of a potential victims' vulnerability to trafficking. Once a person is trafficked, abuse inflicted against them can be of an extreme nature resulting in high levels of trauma. Traffickers can control victims through abuse or threat of abuse including restricting the movement of the trafficked victim, using physical violence and force against them, and psychological abuse and threats. Using these elements of control contributes to the victim losing any sense of self control resulting in physical and psychological symptoms of trauma.

The trauma suffered by the trafficked victim does not end once they have been removed from the control of the traffickers and levels of trauma are not necessarily reduced. Trauma is ongoing and the symptoms of trauma may stay with the victim for a long time after he/she has been trafficked. Symptoms can be physical, for example fatigue and weight loss, or psychological causing the victim to suffer from depression and/or anxiety. Recovering from trauma takes time but may be assisted through support from professionals or NGOs.

Investigating officers can help to minimise the psychological impact the investigation may have on the trafficked by engaging sensitive and timely interview strategies. It is important to note that no two victims of trafficking are the same, meaning that the impact from being trafficked will not affect each trafficked victim in the same way. What may be common to many victims of trafficking is the development of psychological tactics that they have adopted in order to cope with the events they have endured.

Although the majority of trafficked victims will be suffering from symptoms of trauma, they may each react in different ways during their involvement in the criminal investigation. Trafficked persons can display extremes of behaviour from hostility and aggression towards the interviewing officer, to being very compliant and co-operative, treating the investigating officer as a hero. It is important to react to the behaviour of the trafficked victim in a sensitive and understanding manner. When questioning the victim, challenging and directly questioning the victim may contribute to further traumatisation and should be avoided where possible. Some victims may be too traumatised to act as a witness or even to provide much information or evidence to the investigating officers. However, this situation has the potential to be remedied in some instances when victims have access to professional psychological support. In keeping the best interest of the victim at the forefront of the investigation, investigating officers should refer highly traumatised victims to support services before interviewing

them so that their suitability to be interviewed can be assessed and so that their immediate needs are met. The victim should be stabilised before being interviewed.

This paper has been prepared to provide some broad background material for the workshop. Please note that fuller materials, including speaker summaries and workshop conclusions, will be included in the official report of the Vienna Forum.

If you have any further information regarding this topic, please contact:

Anti-Human Trafficking Unit
United Nations Office on Drugs and Crime
P.O. Box 500
1400 Vienna
Austria

tel: +43 1 26060 5687
fax: +43 1 26060 5983
email: ahtu@unodc.org
website: www.unodc.org