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Trafficking in women and girls

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**U.N. Expert Group
on Trafficking in Women and Girls**

Contribution by

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**1. The Human Rights Approach to Strategies against THB:
Problems and Best Practices**

1.a The Human Rights of Trafficked Persons

A human rights approach and a gender perspective are the essential focus of a co-ordinated international effort aimed at preventing and combating THB. This approach is consistent with the UN Convention on the Elimination of All Forms of Discrimination against Women (1979), the UN Convention on the Rights of the Child (1989) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000), the ILO Convention n. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) the Statute of the International Criminal Court, which defines trafficking as a form of enslavement falling within the crimes against humanity, the UN Convention against Transnational Organized Crime and the Optional Protocol on Trafficking in Persons, in particular Women and Children (2000), the CoE Recommendation n. 2000/11, the EU Framework Decision n. 2001/24.

The human rights approach has been underlined in many UN documents and initiatives. In 1999 the High Commissioner for Human Rights Office produced "Principles and Guidelines on Human Rights and Human Trafficking". The General Assembly adopted several Resolutions on THB, submitted by the Commission on the Status of Women. In June 2000 the Resolution on Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action was adopted by the General Assembly (23^o Extraordinary Session). The Report of the Secretary General submitted on 25th January 2002, concerning the Integration of the Human Rights of Women and the Gender Perspective, deals particularly with Traffic in Women and Girls.

The CoE Recommendation n. 2000/11, focusing on trafficking for the purpose of sexual exploitation, establishes principles and indicates measures appropriate to all forms of trafficking for any illicit purpose. The Recommendation states as a priority to protect the rights and interests of the victims of trafficking, in particular the most vulnerable and most affected groups: women, adolescents and children.

Emphasis must be put on the process of ratification of the UN Convention on Organized Crime and the Protocol on Trafficking in Persons s. The entry into force and the participation of the majority of

the States worldwide in the Convention and Protocol mechanisms aimed at improving international cooperation is essential to reach the goal of preventing and combating THB.

The definition of trafficking in persons contained in the Palermo Protocol is the outcome of a long negotiation and constitutes a balance between widely differing cultural interests and orientations, having a different view of the phenomenology of THB. In other terms the negotiation has involved countries of origin, of transit and destination of all the areas in the world.

According to art. 3 of the Protocol, the definition of trafficking is very broad and such as to cover all forms of trafficking. “Trafficking in person 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 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”.

The Council of Europe is discussing the feasibility of a European Convention on THB aimed at establishing a regional instrument aimed at assuming as a starting point the UN Convention and the Protocol on THB, particularly the definition under the Protocol, and stipulating more detailed and binding provisions. The general goal is to strengthen the position of the trafficked person, by establishing an obligation for the Member States to protect the rights of victims, ensure shelter, assistance and rehabilitation programs, favor a process of social reintegration, both in countries of destination, transit and origin.

So far the approach to the problem of THB, in the relevant international legal documents, mostly focuses on investigation and prosecution. The Statute of ICC and the Palermo Convention and Protocol, concern criminal matters. At the European level, the Framework Decision of the Council n. 2001/24 mostly deals with the problem of establishing severe and dissuasive sanctions, to improve judicial cooperation and prevention of crime.

In this context, the provisions aimed at protecting victims, both at international and regional level, are insufficient for establishing an effective mechanism of ensuring enforcement of the rights of trafficked persons.

1.b Best Practices in Europe

The protection of human rights of victims and effective investigation and prosecution are inextricably linked. Strengthening and improving investigation and prosecution is essential. THB is one of the most serious crimes in the international scenario, but it is a low risk crime, compared for example to drug traffic. As the Italian experience against the mafia shows, impunity is one the major reasons why organized crime becomes more and more strong and influential on societies and political systems.

However, it is important to stress that, concerning THB, in order to improve the result of prosecution, the role of the trafficked person is essential. Therefore, the human rights of the trafficked person should be protected, first, because she/he is a victim of a serious crime, secondly, because this makes investigation and prosecution more effective.

This means that the trafficked person should be assisted and protected as a victim, not only as a witness. This approach has proven effective also from the point of view of the results of prosecution.

As a matter of fact, according to the best practices at national level, victims are willing to cooperate with authorities in charge of investigation and prosecution when they are assisted and protected, especially concerning safe housing, psychological and medical assistance, residence *status*, legal counseling and representation in criminal proceedings. Generally speaking, the testimony of the trafficked person is helpful for investigation; in the majority of the cases leads to the conviction of offenders.

Some domestic legislation have tried to face the problem with innovative instruments. At the European level of special interest are the Belgian, Italian and Dutch legislation.

In Belgium child trafficking and pornography are regulated by the Act of 13 April 1995 and by Royal Decree of 16 June 1996. The Law provides for the establishment of a “Centre for equal opportunities and for the fight against racism” which has the task of promoting and coordinating the policies against trafficking at the international level. An inter-departmental cell has been set up which brings together representatives of the various ministries, of the Board of Judges and Prosecutor’s Offices, the enforcement agencies, the Office for Foreigners, and of the Centre for equal opportunities and the fight against racism. The interdepartmental cell has set up two Centres providing shelter and support which is run by two associations: PAG-ASA and SURYA. The PAYOKE association (active since 1988 in the Flanders) is linked to a programme providing assistance and protection for the victims of trafficking. The centre offers legal, administrative, social and medical assistance to the victims. The circular letter of 7 July 1994 has set forth that the three centres can address the Belgian authorities for issuing of a short-term residence permit for the victims of trafficking, provided that they cooperate in the judicial proceedings against the traffickers.

The procedure for the issuing of the residence permit is as follows:

Phase one: the victims are served an order to leave the territory within 45 days. During this time period the victims may decide to report the exploiter.

Phase two: If within 45 days the victim files a report, he/she receives a three-month provisional permit. Throughout this time the victim is always assisted by a shelter centre and can also be given a provisional work permit.

Phase three: if the criminal proceedings are started and it is ascertained that the person is truly a victim of trafficking, he/she receive a six-month residence permit, which is renewable.

During this time period the specialised shelter centre must continue to take care of the victim. If the exploiter is bound over for trial or the deposition of the victim is considered to be significant for the subsequent steps of the criminal proceedings, the person may apply for a residence permit for an unspecified length of time.

In The Netherlands the reflection period approach has been adopted. When the police suspects a case of trafficking, victims are given the possibility to file a complaint within three months. If the trafficked person reports to the police a residence permit is granted and a shelter is being given for the duration of the proceedings against traffickers. When the proceedings end, the victim is given the possibility to apply for a further residence permit on humanitarian grounds. During the criminal proceedings housing, income and social security are provided for by the State. However, victims are not allowed to work. The Netherlands is the first country in Europe where an Independent National Rapporteur on THB has been appointed.

The Italian Law on Immigration (Law Decree n° 286 of 25.7.98) provides for a residence permit for victims of trafficking in human beings on grounds of social protection. The trafficked persons can get a special residence permit when they are in danger because of their attempts to escape from the traffickers. There are two different ways through which a residence permit may be granted, the so-called “judicial way” and the “social way”. In the “judicial way”, if a trafficked person files a report to the police as a first step, the local police office will refer him/her to the closest shelter and then the prosecutor’s office will ask for a residence permit. In the “social way”, the trafficked person first turns to a social worker of an outreach unit and the association will shelter her/him and then apply directly to the police authority for a residence permit, giving the reasons for the application. In other words, the association states that the person was exploited and subjected to acts of coercion by a criminal group, and that she/he is currently in danger because of her/his attempts to escape from organised crime. In the latter case, the police authority checks into the existence of the conditions provided for by the law and grants the residence permit regardless, at least at this stage, of whether the person has reported or acted as a witness in the criminal procedure.

The “social way” is independent of the procedure in the first stage, but they are linked in the second stage. In fact, the information contained in the application of the NGO is a *notitia criminis*, and the police must inform the prosecutor’s office. In the Italian legal system prosecution is mandatory *ex officio* for the majority of crimes involved in the cases of trafficking. Hence, at a certain point, the victim will be obliged to act as a witness, and this is compulsory in the Italian criminal procedure. But by this stage, the person will already have obtained a residence permit and have been guaranteed that she will be sheltered, protected and not be deported. It is not exactly the “reflection period”, but the result is the same in practice. Under Italian Law, the residence permit has a duration of six months, renewable for one year, or more, if the presence of the person is required in the criminal proceedings. During the period of duration of the residence permit, the victim can get a gainful employment. In this latter case victims can get a residence permit for work and stay in Italy even after the end of the criminal proceedings.

The Italian model has proven effective both in terms of protection of victims and successful prosecution, due to three elements:

- Not necessarily the victim must report to the police as a first step; she/he can ask for assistance and shelter to an NGO or to a social worker of a street unit.
- NGOs which are included in a special register can apply for the residence permit on social protection grounds on behalf of the trafficked person. In fact, this process implies that the victim has a period of reflection, in which she/he cannot be deported, she/he is placed in a shelter and has been granted – or has applied for – a residence permit, before reporting to the police or acting as a witness.
- The residence permit is connected with the participation in an assistance and social integration program. This implies that the trafficked person is provided with medical and psychological assistance, legal counseling, training and help for job opportunities.
- The residence permit on social protection grounds gives an opportunity of regularization. During the period of validity of the residence permit, the victim can get a gainful employment and ask for a new permit for work. The result of this process is not linked with the outcome of criminal proceedings. Even though the defendant is acquitted, this does not imply that the victim cannot remain in the Italian territory.

It is important to emphasize that, under the Italian legislation in force before 1998, when only a residence permit on judicial grounds was stipulated, and the trafficked person was supposed to be repatriated after the end of the trial, only a few cases of trafficking were before the Courts. After the approval of art. 18 of the Law on Immigration of 1998, over 1.000 residence permits have been granted. About 4.000 women have received a concrete help, in terms of health care and counseling.

About 1.500 persons, especially women and girls, have been accepted in the social integration programs.

According to the Italian National Antimafia Directorate figures, the mechanism has proven effective also in terms of prosecution. Compared to a few cases before the Law on Immigration, 2.700 criminal proceedings with many defendant are currently in place in Italy. In the majority of the cases the trafficked person acted as a witness and criminal proceedings ended with a conviction in the first degree.

Therefore, a co-ordinated international strategy against THB must establish a proper balance between the actions aimed at protecting human rights of trafficked persons and the action aimed at strengthen investigation and prosecution. However, the protection of the human rights of the trafficked person should be prioritized and unconditional.

1.c A Gender Based Approach

Emphasis should be given to a gender perspective as an essential aspect of the human rights approach. The root causes of THB are in patriarchal structures that worldwide keep so many women in a condition of subordination to men, lack of recognition of their human rights, lack of equal opportunities, unemployment and poverty.

Tackling root causes of trafficking should be centered on the problem of gender inequalities, aim at empowerment of women, and should foster promotion of the position of women in societies, including access to education, employment, credit, equal pay and decision making.

Trafficking should be regarded as a form of gender-based violence. Many times, behind a case of trafficking there is a violent parent, an abusive family, or a family where a girl is considered a burden. Trafficking in itself is favored by the demand of sexual services of women by men, which mostly derives from the patriarchal background still characterizing all our societies, both in western countries, underdeveloped countries, countries with economies in transition.

When a woman is trafficked, she undergoes negative additional negative consequences for being an illegal alien and/or a prostitute. The principle of non-discrimination should be at the core of any anti-trafficking strategy, not only in countries of origin but also in countries of transit and destination. The non-discrimination approach should encompass the prevention of all forms of marginalization social stigmatization against trafficked persons, as illegal migrants and/or prostitutes.

A gender based approach should not emphasize the victimisation process as the essential element of the identity and position of a trafficked woman.

Sometimes trafficked women and girls are particularly vulnerable. But sometimes they are very strong persons. Sometimes they have left their countries because they were the only resource for their families and children. Sometimes they had their own project, may be including illegal migration, may be including exercising prostitution for some years, or participating in the sex industry for some years. For these women and girls, trafficking means the failure of a migration project, aimed at ensuring a better life to them and their children.

In order to avoid any discrimination or stigmatization, the approach of institutional and social actors to women and girls who have been trafficked should be based on the idea that they are not criminals, nor illegal aliens or prostitutes, but victims of a crime.

But it is important to underline that the definition of victim is a legal concept. A cultural and social approach should not stress the condition of victim as the essential aspect of the identity of a trafficked woman. On the contrary, trafficked women and girls should be regarded as persons willing to escape from traffickers, to reach full self-determination and freedom in their own lives.

1.d An Approach Focusing on the Best Interest of Children

The case of children exploited in the context of human trafficking is one of the most serious criminal segment, a particularly unacceptable infringement of human rights for the whole international community.

Since the adoption of the UN Convention on the Rights of the Child (1989), the approach focusing on the rights of children should be taken into account in every international legal document. With regard to legal measures concerning victims of crimes, it should be considered that children are particularly vulnerable, and are targeted as potential victims of any form of exploitation, sexual exploitation or labor exploitation.

Every action based on the human rights approach should incorporate the principle of the well-being and the best interest of children. Whether they are used in slavery-like labor or services, domestic servitude, prostitution or other forms of sexual exploitation, all the public institutions, at national and international level, should join the efforts to help children to escape from traffickers and to follow a way of rehabilitation and social integration. This implies, *inter alia*, that national legislation should stipulate more protective *standards* of assistance and social protection for minors, considering the vulnerability and special needs of children.

One of the most recent researches concerning child trafficking in Italy, made by the Fondazione Basso, estimates that a percentage going from 4,3% to 6,2 % of trafficked persons in my country are children. These are important figures, considering unbelievable facts of violence and exploitation which stay behind statistics. Even taking into account the obscure figure of trafficking, which escapes from any assessment and which probably concerns just the most serious forms of exploitation, child trafficking does not represent the majority of the cases of THB. This means that it is possible and realistic to put in place effective action against child trafficking.

However, in order to make it possible, it is important to stress that a more protective approach is needed, concerning the broader problem of foreign unaccompanied minors. Every case of an unaccompanied foreign child could hide a case of trafficking. A child should not be deported or repatriated with coercive measures, at least not before having listened to her/him; qualified people must also estimate if repatriation is in the interest of the child.

It should be established, through statutes or administrative regulation, a procedure of listening to the child before any decision about her/his status, aimed at evaluating the reasons of the entrance, the relation with the native family, her/his concrete outlooks for the future. Such a practice should give to the child an effective right to be listened to in every proceeding regarding himself stipulated by the Convention of New York. Furthermore, it occurs to consider the opportunity to establish a sort of tutor, to help the child to understand and explain her/his own feelings and plans, and

simultaneously to help the competent authorities to evaluate the best interest of the child in the concrete case.

Generally speaking, the mere fact that the police discovers where the family is located, even if indispensable, cannot be considered enough for the decision on repatriation. Indeed, it must be also valued if the rejoining with the family in the native country is really in the interest of the child, according to both to her/his actual aspirations and the reasons of the departure.

In the case it is stated that it is in the interest of the child to stay in the receiving country, it must be also evaluated that, with the help of the *tutor*, considering the age of the minor and her/his opportunities for integration, it must be decided which alternative is more suitable to follow, if the national legislation gives different options, for instance between a residence permit for minors or for victims of trafficking.

Since child trafficking must be considered as a high priority, also policies concerning assistance and protection of children should ensure a more protective standard of protection of the rights of children (see § 3.d).

A particular concern derives from the fact that a high number of children worldwide are not registered. Research should be carried out on the feasibility of an International Children Registration System.

Particular attention should be also paid to trafficking of children for the purpose of organs explantation.

In general, a particular focus on the special needs of children should be included in every action against trafficking, concerning prevention, assistance and protection, children's rights in criminal proceedings (see § 3.a, 3.d, 3.f).

2. Strategies

2.a THB and Illegal Migration

Government policies concerning THB are still largely dominated by concerns related to the strategies against illegal migration.

Despite the fact that THB and illegal migration are linked, it is important to stress that THB is different from the general phenomenon of illegal smuggling. According to the definition under the Palermo Protocol on Trafficking in Persons, trafficking of adult persons always implies violence, threats, coercion, fraud or abuse. Voluntary illegal border crossing is out of the scope of the discussion and action against trafficking.

Of course, in practice it could not be easy to identify a case of trafficking and distinguish it from a case of illegal border crossing, especially at an early stage of the trafficking chain, when the person has not be submitted yet to violence or abuse.

But in principle the distinction should be kept as a starting point, to avoid any undue overlapping between policies aimed at curbing illegal migration, focusing on protection on the borders and

implying the full implementation of national legislation concerning immigration, and policies aimed at combating trafficking, which should focus primarily on protection of the human rights of trafficked persons.

The trafficked person is not the perpetrator of a breaking of the laws on immigration. On the contrary, she/he is – and should be treated as - a victim of a crime.

However, the interference between laws on immigration and the development of the trafficking chain should be more attentively analyzed.

At the European level, in many occasions it has been stressed that the opening of possibilities for legal migration is one of the ways to prevent trafficking in human beings. Too strict policies of immigration in countries of transit and destination increase vulnerability of migrant people, and favor traffickers' purposes.

2.b THB and Prostitution

Similarly, a clear distinction should be made between trafficking and prostitution. Since trafficking of an adult always involves violence, threats, coercion, fraud or abuse, voluntary prostitution, voluntary participation in the sex industry is out of the scope of the anti-trafficking action.

Different strategies on prostitution are supported by different cultural and religious orientation and by different women's associations. Catholic organizations mostly support the idea that prostitution never can be considered as a voluntary activity, because selling sexual service is not consistent with the supreme value of human dignity. The feminist debate is still polarized between the idea that prostitution in itself is a form of violence against women, that reflects a male-dominated society, and the idea that a gender-oriented strategy on prostitution should be based on the protection of the rights of women who voluntarily choose to become sex workers. According to this approach, prostitution is a job, and women in sex industry or in prostitution should have all the rights that national legislation stipulates for working people.

National legislation goes in opposite directions. In the majority of the European countries prostitution in itself is not criminalised, not concerning prostitutes nor clients, even though everything around prostitution is criminalised. Sweden passed legislation stipulating criminal penalties for clients. The Netherlands and Germany passed legislation legalizing prostitution. In many countries worldwide prostitution in itself is criminalised. We cannot expect that the States will rapidly change their legislation on prostitution. Harmonization of legislation in this field needs a deep and difficult discussion. Needs to learn from implementation of different national approaches.

However, we have to fight against trafficking now. It is important to understand that it is possible and necessary to join the efforts to combat the criminal phenomenon which is defined as trafficking under the Palermo Protocol. Trafficking occurs only when the person is submitted to violence or coercion or fraud or abuse. Voluntary prostitution, voluntary participation in the sex industry is out of the scope of trafficking.

However, it is helpful to propose concrete solutions aimed at reducing possible negative effects of the legislation on prostitution in the fight against trafficking. Of course, where prostitution in itself is punished as a crime, the fear of being prosecuted for prostitution is a major obstacle for trafficked

persons to try to escape from traffickers and report to the police. In this case, at least a special clause of non punishment should be stipulated for victims of trafficking (see § 3.b).

Secondly, it is essential to harmonize the interpretation of the formulation included in the definition of trafficking under the Palermo Protocol, concerning the “abuse of a position of vulnerability”, which is the frontline, *inter alia*, between voluntary prostitution and trafficking. The starting point is the indication included in the *Travaux préparatoires*, which clarifies that the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse.

Third: there is a general agreement about the importance of reducing the demand of sexual services as an essential and common goal, through education to equal and respectful relationships between the sexes, and awareness raising campaigns especially addressing clients.

According to the UN Protocol, this should be an issue for national policies, and also for international cooperation actions aimed at prevention (see § 3.a)

2.c THB, Forced Labor and Domestic Servitude

So far the attention of the international community mostly focused on trafficking for the purpose of sexual exploitation.

However, according to the definition in the Palermo Protocol, trafficking in human beings should be regarded as a complex phenomenon, including sexual exploitation and other forms of exploitation such as forced labor or services and involuntary domestic servitude.

The criminal phenomenon of children trafficked for the purpose of slavery-like labor or services is one of the major concerns of International Labour Organization, which adopted the Convention on the Elimination of the Worst Forms of Child Labour (1999).

These two international instruments enlarge the scope of the international cooperation to prevent and combat forced labor or services.

In the ILO Convention (N.29) concerning Forced Labour, adopted in 1930, forced or compulsory labour is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

According to the Protocol, the scope of the obligation to criminalise comprises trafficking for the purpose of forced labor or services, or servitude, committed not only through violence or threats but also through abuse of a position of vulnerability. This implies that international investigative and judicial cooperation can be requested also in cases of abuse of a situation of extreme poverty, when the person is compelled to perform the services not necessarily under menace, but when she/he has not choice nor other real alternative, for example in case of debt bondage. This approach could make the efforts against forced labour or services much more comprehensive and effective.

Prevention should use this global approach to tackle forced labor, especially child forced labor. To reach this goal, trafficking in human beings, which so far was considered an issue mostly regarding the areas of migration and justice, should be included in the social agenda of the International Organizations. In terms of prevention of forced labour and services, more effective actions are

needed, aimed at curbing illegality in the labor market, combating labor exploitation and promote better conditions for all the workers.

Particular attention should be paid to domestic servitude, and its root causes. In order to prevent and combat this phenomenon, which is increasing in several countries, a gender-based approach is needed.

Domestic servitude is a criminal form of slavery-like condition, and it affects a little number of domestic workers. But it is undoubtedly connected with the demand of domestic services which are mostly performed by migrant female workers. In this field, multiple discrimination can easily take place, since domestic servitude always implies the infringement of the basic human rights and dignity of the involved person, who is mistreated because she is a migrant, she is poor, she is a woman. Domestic servitude is the result of an abusive personal relationship in which sexism, racism and social discrimination are simultaneously in place.

2.d THB and Corruption

According to several researches, corruption is inextricably linked to trafficking. States with a high level of corruption have low standards of efforts against trafficking. On the other hand, corruption is one of the cost factors for traffickers.

According to data coming from the Programme Against Corruption and Organised Crime in South-Eastern Europe (PACO) of the Council of Europe, opportunities for corruption concern primarily law enforcement. In particular, police departments in charge of registering foreign citizens are sometimes believed to accept bribes to issue work and residence permits for foreign “dancers”. Local Police officers in charge of protection of pubs and bars may inform the owners before raids.

Police agents may help traffickers in other ways. For example they can put victims again on the streets to prevent them from reporting traffickers, or may deport them before giving testimony. Victims who are deported may be immediately re-trafficked on the basis of information provided from police to traffickers

Corruption at the borders and among immigration authorities may lead to illegal provision of visas, residence permits, identity documents, sometimes with the involvement of corrupt officials in the embassies of the countries of destination

Corruption in the field of trafficking affect also politics. Some politicians may have contacts with organised crime and traffickers

Corruption also involves the private sector, particularly travel agencies.

Generalizations in this field should be absolutely avoided. Not all law enforcement officials or politicians are corrupted. The situation deeply differ from country to country. But it cannot be denied that corruption is a significant problem, which requires effective measures to be dealt with.

3. Policies

3.a Prevention

As a general recommendation, the importance of effective measures in the field of prevention should be stressed.

Action aimed at prevention should be strengthened, in particular action addressing the root causes of THB, aimed at improving international cooperation to deal with extreme poverty, unemployment in countries of origin, underemployment and exploitation of labor in countries of transit and destination, lack of equal opportunities for women, discrimination, domestic violence, lack of protection of children's rights.

Suggestions:

International cooperation should be strengthened, particularly in the following fields:

- Information campaigns are essential and should be enforced and disseminated, particularly in poor areas and among targeted groups, especially children, with particular attention to girls.
- Effective action aimed at discouraging and reducing the demand of sexual services should be taken first in the field of education. Equality in the relationships between women and men is essential to enhance an approach to sexual life based on respect of dignity and freedom of the partner.
- In addition, public awareness campaigns should specifically address clients, to make it clear that behind prostitution on the streets or in brothels, lies the possibility of slavery-like conditions and forced prostitution. Solidarity towards kidnapped, raped or abused women should be encouraged.
- Further measures should be provided for in the field of law enforcement activities, in addition to those stipulated by the UN Convention and the Protocol regarding prevention. In particular, the need for training of public officials, and for joint training for public officials and social workers from NGOs should be stressed.
- Special Police Units should be established at regional level, for coordination of investigative action against THB. Special Police Units should also be established also at local level with operational tasks, especially in countries of origin and transit; if possible, women officers should be appointed.
- Further steps are required to improve the exchange of data and investigative information, on bilateral and multilateral basis. Additionally, the exchange of data could be supported by international police bodies such as Interpol, Europol, SECI.
- Police cooperation should also be improved within the field of protection of families of victims abroad, when children or other relatives are threatened by traffickers. Protection should be ensured in the country of origin by the local police authorities.
- The role of the private sector and its participation in preventing and combating trafficking in human beings should be stressed, especially concerning the financial and transportation sectors.
- Although it is not only related to prevention, it is essential to mention cooperation between NGOs and public institutions, in particular law enforcement. To achieve the goal of improved cooperation, some forms of official recognition of NGOs working with victims of trafficking should be considered. Alternatively, possibility of establishing “memorandum of understanding” between law enforcement and NGOs should be tasted out.

3.b Residence status of trafficked persons

Trafficked persons are victims, not criminals. They should not undergo additional negative consequences as a result of their condition of being victims.

Suggestions:

- Stipulating in national legislation a clause of non-punishment for the offences connected to the status of victim, such as prostitution, illegal border crossing and crimes instrumental in illegal immigration (use of false documents, destruction or alteration of documents, staying within the State beyond the expiring date of entry documents). The clause should be applied when the person makes reliable and helpful statements in criminal proceedings;
- Stipulating a residence permit on grounds of protection. When a person states she/he is a victim of trafficking, she/he should be allowed to stay temporarily in the receiving State, regardless whether she/he reports to the police. After this “reflection period”, when the trafficked person reports to the police and makes reliable and helpful statements in criminal proceedings, she/he should be allowed to get a remunerated job. In this case, the residence permit should be converted on labor grounds and enable the person to apply for a permanent residence status.

3.c Assistance and protection of trafficked persons

Trafficked persons should be assisted and protected as victims, not only as witnesses.

Suggestions:

- Funding and establishing a standard of assistance and social protection of trafficked persons, in connection with the granting of a residence status. The assistance standard should be appropriate for the initial support activities, and the duration of the residence permit.
- Initial support activities should aim at enabling victims to recover from the trauma, and start a process for restoring self-esteem. Relevant needs to be met are related to safe housing, urgent medical and psychological care, interpretation service and cultural mediation, legal counseling. Interpretation, cultural mediation and counseling should be ensured to all those who are to be deported, when there are grounds to suspect they are victims of THB.
- In the second stage, assistance activities should aim at social integration, in the host country, or in the country of origin in case of voluntary repatriation. The standard of assistance during this period should focus on education and professional training, job opportunities, financial support, access to basic medical care.
- Every action in the field of assistance and social integration of victims should be carried out through a permanent cooperation between public institutions and NGOs.

3.d Residence status, assistance and protection of children

The level of assistance and protection should be heightened where children are concerned.

Suggestions:

- Unaccompanied minors should not be deported before establishing their nationality, the location of their families, or before the possible application for a residence permit.
- With the assistance of a tutor, the minor should have an opportunity to decide if she/he wants to return or she/he wants to stay in the host country. If she/he wants to return, the State should establish programs aimed at assisted return. If she/he wants to stay, she/he should have the

option between the residence permit on protection grounds, or a more favorable procedure provided by national legislation for minors.

- If an unaccompanied minor does not want to return, the possibility for her/his family to join her/him in the host country should be provided for, especially where her/his safety is endangered in the country of origin.
- If a minor chooses the option of the residence permit on the grounds of being victim of trafficking, she/he should have access to the residence permit under the same conditions as adults. In addition to the general measures concerning adults, she/he should have access to education under the same conditions as nationals.
- Housing and assistance activities standard should take into account children's need for deep and committed relationships, and aim at creating a familiar and friendly environment.

3.e Investigation and prosecution

In order to improve the results of prosecution, investigation should develop both methods based on the witness statements of the victims and on typical methods used in organised crime cases.

Suggestions:

- Trafficking cases should be dealt with as organised crime cases. This implies the use of appropriate investigative methods and techniques, such as phone tapping, electronic surveillance, financial investigation, undercover agents.
- It is necessary to strengthen the cooperation between police officers and prosecutors, since this is a problem in several countries. Prosecutors should be involved in trafficking cases from the beginning and lead the investigation with a view to ensuring that appropriate evidence will be brought before the Courts.
- Even when appropriate investigative techniques are used, the cooperation of the trafficked person remains essential for a successful prosecution. A code of conduct concerning the way to approach the victim should be developed among law enforcement officials and agents, and among prosecutors and judges.
- How to approach the trafficked person should be an issue for joint training addressing law enforcement and NGOs.

3.f The rights of the trafficked person in criminal proceedings

A process of harmonization of national legislation on criminal procedure is needed, intended to further protect victims' rights in criminal proceedings.

Suggestions:

under national legislation, stipulating more detailed provisions regarding:

- The protection of privacy, especially thorough close-door trial or at least an optional close-door hearing for giving evidence.
- Anonymity, at least through a rule of confidentiality in criminal proceedings.
- Police protection. When the victim acts as a witness, police protection should be proportionate to the severity of the case. If the danger is very serious and ordinary measures are insufficient, the victim should have access to special protection programs, including change of identity, replacement and financial support. When the family in the country of origin is threatened, the State should facilitate the resettlement of the family in the receiving country.
- Protection from intimidation. A special preliminary hearing for anticipated giving evidence should be provided for, to avoid coercion of the victim before trial, especially when the victim is

a minor. Audio-video facilities could be used in order to avoid physical and visual contact between the victim and the defendant. This kind of “protected testimony” should be compulsory for children.

- Assistance and legal representation. The victim should be allowed to be assisted by a trusted person during criminal proceedings. As far as possible, the States should facilitate access to free legal representation,
- Compensation. The right to compensation is established in the UN Convention and the Protocol. In addition, a special Fund could be established, to ensure compensation is actually received by trafficked persons.

3.g A monitoring system

A monitoring system should focus on collecting information about actions and initiatives taken and evaluating their results on a regular basis, by collecting data deriving from different actors and agencies, including social and judicial bodies, and NGOs.

Suggestions:

- Establishing a National Rapporteur, or other independent authority, responsible for promoting new legislation, administrative measures, policies against THB, and monitoring the implementation at national level.
- Establishing at the UN level a monitoring system of the implementation of the UN instruments and of national legislation directly or indirectly concerning THB.

Rome, 5 November 2002