



# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

Distr.: General  
26 June 2019

Original: English

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## Working Group on Trafficking in Persons

Vienna, 9–11 September 2019

Item 3 of the provisional agenda\*

**Diplomatic and consular officials or liaison officers  
in diplomatic and consular missions and their roles  
in addressing human trafficking**

### **Diplomatic and consular officials or liaison officers in diplomatic and consular missions and their roles in addressing human trafficking**

**Background paper prepared by the Secretariat**

## **I. Introduction**

1. The present background paper was prepared by the Secretariat to facilitate the discussions of the Working Group on Trafficking in Persons at its ninth meeting. It sets out a series of issues that the Working Group may wish to address in the course of its deliberations, provides background information on the topic, including on the main challenges, good practices and the previous work of the Working Group on related matters, and lists specific references, resources and tools that States may use to develop a response to trafficking in persons.

## **II. Issues for discussion**

2. The Working Group may wish to address the issues outlined below, among others, when discussing the topic of diplomatic and consular officials or liaison officers in diplomatic and consular missions and their roles in addressing human trafficking. Those issues are intended to generate discussion concerning better practices as well as the gaps and challenges experienced by those actors in responding to trafficking in persons. In line with good practice, the Working Group's discussion should be informed by an overarching human rights-based approach, including a gender- and age-sensitive analysis of the topics under consideration.

### *Relevant actors*

- (a) Who are the actors within diplomatic and consular missions that may become aware of or receive information that might indicate instances of human trafficking?
- (b) What are their roles and responsibilities in addressing human trafficking?

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\* CTOC/COP/WG.4/2019/1.



(c) How often might these actors come into contact with situations of potential trafficking in persons?

*Prevention*

(d) How do diplomatic and consular officials or liaison officers in diplomatic and consular missions enhance the prevention of trafficking in persons?

(e) What kind of targeted information is disseminated by diplomatic and consular missions on how to travel safely and stay safe?

(f) What good practices are in place to prevent and respond to the abuse of domestic workers by diplomatic staff?

*Identification of victims*

(g) What guidelines, referral procedures, standard operating procedures and/or protocols exist for those in diplomatic and consular missions to identify persons who may be trafficking victims?

(h) What are the current limitations and barriers faced by those in diplomatic and consular missions in identifying and referring persons who may be trafficking victims?

(i) For those actors in diplomatic and consular missions involved in directly communicating with potential and actual victims of trafficking, what are the primary challenges and good practices in that regard?

*Document abuse*

(j) What forms of document abuse (counterfeit documents, forged documents, fraudulently obtained genuine documents and genuine documents that are used fraudulently) are encountered by actors in diplomatic and consular missions in the context of trafficking in persons?

(k) What good practices have been identified to prevent and combat document abuse in the context of trafficking in persons, in particular as it relates to the fraudulent use of genuine documents and fraudulently obtained genuine documents?

*Provision of immediate protection and support*

(l) How do diplomatic and consular officials and/or liaison officers in diplomatic and consular missions ensure that victims of trafficking have access to consular assistance, shelter and psychological and medical assistance?

(m) Are all persons who may be trafficking victims provided with free legal assistance, information and advice on the protection and assistance available to them in a language and form they can understand?

*Gender- and age-sensitive assistance*

(n) What specific gender-sensitive actions are taken by diplomatic and consular officials or liaison officers in diplomatic and consular missions in addressing trafficking in persons?

(o) What special measures are employed to ensure that the best interests of child trafficking victims are safeguarded?

*Safe and voluntary return*

(p) How do diplomatic and consular officials or liaison officers in diplomatic and consular missions assist in ensuring that the return of trafficking victims is voluntary, safe and dignified, and avoids re-victimization?

*Technical cooperation*

(q) Is training for a broad range of diplomatic and consular officials or liaison officers in diplomatic and consular missions available and, if so, is it well established as a practice?

(r) What types of capacity-building and technical cooperation are needed to assist States in urgently enhancing the impact of diplomatic and consular officials or liaison officers in diplomatic and consular missions in addressing trafficking in persons?

*Information-sharing and cooperation*

(s) How do diplomatic and consular officials or liaison officers in diplomatic and consular missions and immigration actors, law enforcement authorities and protection service providers cooperate?

(t) How is this cooperation regulated or otherwise formalized to ensure that there is mutual understanding of the roles and responsibilities in dealing with national and international cases of trafficking in persons?

(u) How do diplomatic and consular officials or liaison officers in diplomatic and consular missions cooperate with other actors, such as international and regional organizations and civil society organizations, to improve responses to trafficking in persons?

### III. Background

3. States are increasingly recognizing the important role that their foreign service personnel can play in addressing trafficking in persons. Owing to the different ways in which diplomatic and consular missions are structured and the varied duties of actors within them, the capacity of personnel to address trafficking in persons will vary.

4. However, foreign service officials are often the first to encounter those in need. Diplomatic and consular missions may be a potential trafficking victim's last chance to avoid exploitation or, for those who are already victims, the only hope for ending their exploitation. This assistance may be all the more crucial in a context where victims may be far from home, in a foreign culture and often unable to speak the local language. Particularly for States with large migrant populations abroad, it is imperative for consular staff to have the knowledge and tools to properly identify victims of trafficking among their nationals,<sup>1</sup> and to be able to respond appropriately, in cooperation with the relevant authorities and service providers in the host country.

5. The need to equip diplomatic and consular officials with at least basic tools to identify situations of trafficking and respond appropriately has been highlighted by the Working Group previously. For example, at its second meeting, in 2010, the Working Group recommended that "with regard to training programmes, States parties should involve all stakeholders, including law enforcement agencies, victim service providers, prosecutors and consular representatives, and should seek to involve judges" (CTOC/COP/WG.4/2010/6, para. 20).

6. At its fourth meeting, in 2011, the Working Group recommended that "States parties should consider carrying out capacity-building activities for law enforcement, prosecutorial and judicial officials and consular staff from countries of origin, transit and destination" (CTOC/COP/WG.4/2011/8, para. 43).

7. At its sixth meeting, in 2015, the Working Group recommended that "States may consider instructing and training, where needed, their relevant diplomatic

<sup>1</sup> This is in line with article 3 of the Vienna Convention on Diplomatic Relations, which notes that the functions of diplomatic missions include protecting the interests of its nationals, within the limits permitted by international law.

and/or consular staff and may consider, where possible, establishing a network of specialized attachés to prevent trafficking in persons” (CTOC/COP/WG.4/2015/6, para. 14).

8. At its seventh meeting, in 2017, the Working Group recommended that States “consider further strengthening the capacities of diplomatic and consular personnel to be able to recognize, and provide assistance to, victims of trafficking in persons” (CTOC/COP/WG.4/2017/4, para. 8 (f)). The Working Group also recommended that States “ensure the availability of interpretation into languages victims can understand, including, to the extent possible, specific local dialects and sign languages, when providing assistance to victims, when necessary, in collaboration with the diplomatic representation of the country of the victim, and promote support to guarantee that persons with disabilities have a full understanding of their legal rights and of the judicial processes they participate in” (para. 8 (d)).

9. These recommendations are in line with a comprehensive response to trafficking in persons that encompasses the need to prevent and combat this crime, paying particular attention to women and children; to protect and assist victims of such crime, with full respect for their human rights; and to promote cooperation among States parties in order to meet those objectives.<sup>2</sup> This was recognized by the Working Group at its eighth meeting, in 2018, at which it recommended strengthening the capacity of front-line actors, through the provision of adequate resources and training, to identify victims of trafficking in persons (CTOC/COP/WG.4/2018/3, para. 7 (m)).

10. Diplomatic and consular officials and liaison officers in diplomatic and consular missions are crucial front-line actors in the response to trafficking in persons, as are criminal justice practitioners, labour inspectors, asylum authorities, legal, medical and psychological services and law enforcement and border authorities. National frameworks should enable coordination between these actors to ensure that consular officials can identify and refer information and/or possibly trafficked persons to specialist agencies and services quickly, easily and in a victim-centred manner.

11. Civil society also plays a key role in preventing and countering trafficking in persons and should be involved in State responses in order to strengthen the support and assistance networks available to individuals who find themselves in vulnerable situations outside their country of origin.<sup>3</sup>

### **Relevant actors**

12. As noted, diplomatic and consular officials as well as liaison officers in diplomatic and consular missions have a range of roles and responsibilities in addressing trafficking in persons. Within embassies, consular officials may regularly act to prevent and/or identify and refer suspected cases of trafficking in persons when processing visas and passport documentation or providing other consular services. Officials may receive direct reports from potential or actual trafficking victims, or they may be contacted by concerned family members or friends of a suspected victim.

13. Consular officials may also process visa applications from foreign nationals and scrutinize these for any indications of trafficking, including the submission of fraudulent documents. Furthermore, consular officials may be involved in the process of reissuing national documents, including for those who may be or are victims of trafficking. In all such cases, consular officials may play a key role in the early identification of trafficking, as well as the provision of protection and assistance to victims. The Working Group has also recognized that, in accordance with obligations

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<sup>2</sup> See article 2 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>3</sup> The Working Group has repeatedly reiterated the importance of the role of civil society in the fight against trafficking. See, for example, CTOC/COP/WG.4/2010/6, paras. 11, 18 and 54; CTOC/COP/WG.4/2011/8, paras. 28 and 42; CTOC/COP/WG.4/2013/5, para. 5; CTOC/COP/WG.4/2015/6, para. 21; and CTOC/COP/WG.4/2018/3, para. 7 (e).

under the Vienna Convention on Consular Relations, States should give workers access to consular offices in case of problems.<sup>4</sup>

14. Some States have dedicated liaison officers or diplomatic officials specifically mandated to address trafficking in persons or related crimes. Some States also deploy liaison magistrates who focus on trafficking in persons from a law enforcement perspective and may, for example, contribute to joint investigations between States.

15. Many foreign service personnel require an understanding of trafficking in persons to effectively advocate for action in international or regional forums, as well as in host countries, in order to prevent trafficking in persons, enhance the protection of vulnerable nationals abroad and further the investigation and prosecution of traffickers. It is also important to raise awareness of trafficking in persons among foreign service personnel to ensure that they do not contribute to trafficking themselves, including in relation to their own domestic or private workers.

16. Recognizing that States have different staffing structures involving a varied range of functions that their representatives abroad undertake, the present background paper does not provide an exhaustive guide to how all such personnel should respond to trafficking in persons. Instead, it seeks to offer a starting point regarding the challenges and good practices encountered by States in accordance with the particular structures and roles of their foreign representatives.

## Prevention

17. There is scope for diplomatic and consular officials or liaison officers in diplomatic and consular missions to enhance the prevention of trafficking in persons. Consular staff can inform nationals of their own country, and those applying for visas to that country, of their rights and how to protect themselves against trafficking. Foreign representations can also develop targeted information campaigns or distribute other material on how to travel safely and stay safe. The prevention of human trafficking in the context of migration may also be enhanced through the opening of legal and accessible migration channels, including for family reunification, and the dissemination of information about those pathways.<sup>5</sup>

18. States should also have internal policies in place to protect domestic workers employed by their diplomatic or consular personnel.<sup>6</sup> While the majority of diplomatic and consular officials conduct themselves according to the highest personal and professional standards, cases of abuse and human trafficking continue to be identified. Domestic workers brought into the country by diplomats may face greater isolation than do other household workers because of cultural and linguistic barriers. Moreover, they are often from a third country and live far away from their family and social networks.

19. Vulnerability to trafficking may be even greater when employment visas are bound to one employer. In such cases, the visa holder cannot be hired by another employer without losing their residence permit and their right to work in a country. Because diplomats generally enjoy immunity from civil and criminal jurisdiction while on assignment, legal resources and remedies available to domestic workers, and the criminal response otherwise available in the host country, may be significantly limited.

20. Nevertheless, States and their embassies and consulates can take a range of measures to prevent the exploitation of domestic workers. The preventive strategies utilized by embassies and consulates should apply to all domestic workers they employ, independently of where those workers come from. The “Handbook for

<sup>4</sup> See CTOC/COP/WG.4/2016/6, para. 8.

<sup>5</sup> Council of the Baltic Sea States, “Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking” (Stockholm, 2011), p. 57.

<sup>6</sup> See the Working Group’s previous recommendation that “different forms of labour exploitation, especially domestic servitude, with particular reference to domestic servitude involving diplomatic personnel” should be considered for future meetings of the Working Group (CTOC/COP/WG.4/2011/8, para. 50 (d)).

diplomatic and consular personnel on how to assist and protect victims of human trafficking”, published by the Council of the Baltic Sea States, recommends that embassies and consulates establish policies to prevent the abuse of domestic workers, and contains instructions to diplomats and consular staff on the treatment of domestic workers, including rules to prevent any form of exploitation, and clearly setting out the repercussions for any form of abuse. It outlines the practice of holding diplomats accountable for their treatment of domestic workers, and sets out that formal employment contracts are compulsory and subject to review and must contain mandatory provisions relating to, for example, the minimum wages to be earned, leave and the ability of workers to contact their families, and the provision to domestic workers of information about their rights and how they can obtain assistance if they require it.<sup>7</sup>

21. The paper by the Organization for Security and Cooperation in Europe (OSCE) entitled “How to prevent human trafficking for domestic servitude in diplomatic households and protect private domestic workers”<sup>8</sup> provides guidance for protocol departments and similar authorities in preventing domestic servitude and responding to situations of exploitation. The OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings developed this paper following a series of consultations in which heads of protocol and protocol officers from 43 OSCE participating States, academics and members of non-governmental organizations shared experiences, identified prevention and protection measures and discussed how to overcome challenges.<sup>9</sup>

22. In order to provide additional information on prevention more generally, the Secretariat has prepared a background paper for the current meeting of the Working Group entitled “Crime prevention measures in trafficking in persons” (CTOC/COP/WG.4/2019/2). In addition, a paper published by the Inter-Agency Coordination Group against Trafficking in Persons entitled “Preventing trafficking in persons by addressing demand” also provides guidance to organizations and practitioners on prevention by mapping out the dimensions of demand as it relates specifically to trafficking in persons for labour exploitation, as well as highlighting strategies that can be used to address that aspect of the problem.

### **Identification of victims**

23. Detecting trafficking in persons remains a challenge owing to a multitude of factors, including the fact that, once they can no longer be reached by national support structures, trafficking victims are vulnerable to various means of control and are often unable to appeal for assistance. In addition, victims are often concerned for their own safety, fear retribution and suffer feelings of shame and stigma associated with their status as trafficking victims. Further, from the outside, some victims of trafficking may appear to be in a legitimate labour arrangement or to be conducting an illegal activity of their own volition.

24. The characteristically hidden nature of trafficking makes it crucial for diplomatic and consular officials and liaison officers to work for the early identification of victims, in order to facilitate prompt assistance, support and protection for victims and to enable the police and prosecution authorities, following referral, to better investigate and prosecute traffickers.

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<sup>7</sup> Council of the Baltic Sea States, “Handbook for diplomatic and consular personnel”, p. 58.

<sup>8</sup> Organization for Security and Cooperation in Europe, Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *How to Prevent Human Trafficking for Domestic Servitude in Diplomatic Households and Protect Private Domestic Workers* (Vienna, 2014).

<sup>9</sup> As follow-up to such consultations, Poland and Ireland adopted new procedures and guidelines to prevent and discourage the exploitation of domestic workers in diplomatic households. Austria has also developed regulations and measures to support and protect private domestic staff against labour exploitation, while continuing to enable the employment of such staff by diplomatic agents and officials of international organizations in accordance with relevant international law.

25. Early identification requires personnel to have a thorough knowledge of the indicators of trafficking. When the Working Group first met, in 2009, it recognized the need to “develop, disseminate to practitioners and systematically use criteria for the identification of victims” (CTOC/COP/WG.4/2009/2, para. 13 (e)). In 2011, the Working Group further reiterated that “States parties should endeavour to ensure that actors who could identify victims of trafficking in persons are made aware of relevant and specific information likely to expedite the identification of victims of trafficking” (CTOC/COP/WG.4/2011/8, para. 26).

26. Many States have developed guidance to support identification, which has been used by the United Nations Office on Drugs and Crime (UNODC) to produce technical material on the indicators of trafficking in persons.<sup>10</sup> Additionally, the “Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking” contains a list of general and direct indicators of human trafficking and a practical list of questions that consular officers could pose to assist in identifying victims when conducting interviews for the purpose of issuing visas or other documents to persons applying to travel abroad for recreation, study or work. Such interviews present a crucial opportunity to identify possible victims and mitigate the risk that they are mistaken for irregular migrants and deported or detained.<sup>11</sup> Not all indicators will be present in all situations and that the presence or absence of any specific indicator neither proves nor disproves that trafficking in persons is taking place but should instead lead to further enquiry and/or referral to the appropriate authorities.

27. In determining whether a situation involves trafficking in persons, potential trafficked persons should be presumed to be victims of trafficking and treated as such, regardless of whether or not such status has been officially granted yet and regardless of their immigration status. Any interviews conducted by consular officials or liaison officers should use a victim-centred and trauma-informed approach that focuses on the rights and needs of the victim, engenders autonomy and respect and empowers the victim to make their own decisions without fear of being judged.<sup>12</sup>

### **Fraudulent documents**

28. Diplomatic and consular officials or liaison officers in diplomatic and consular missions should be particularly aware of the significant role that document abuse plays in cases of trafficking in persons. Document tampering may include the removal or addition of information, such as the replacement of biodata or the placement of fake visa, entry and exit stamps in genuine passports. A passport may also be used by an individual who bears a strong physical resemblance to the rightful owner of the passport to obtain genuine identity documents. The falsification of visas also remains a common method in cases involving trafficking and the smuggling of migrants. Alternatively, visa applications may be supported by counterfeit or forged documents including flight tickets, boarding passes, residence permits, birth certificates, sponsorship letters or other documents.<sup>13</sup> Furthermore, trafficking victims are often provided with convincing cover stories and comprehensively coached in how to respond to queries.

<sup>10</sup> UNODC, “Anti-human trafficking manual for criminal justice practitioners: module 2—indicators of trafficking in persons” (Vienna, 2009); UNODC, *Countering Trafficking in Persons in Conflict Situations: Thematic Paper* (Vienna, 2018), annex II.

<sup>11</sup> Explanations of the distinction between trafficking in persons and smuggling of migrants are contained in many UNODC policy papers and tools including the *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.06.V.11), pp. xiii. See also Inter-Agency Coordination Group against Trafficking in Persons, “What is the difference between trafficking in persons and smuggling of migrants?”, Issue brief, No. 1 (October 2016).

<sup>12</sup> Council of the Baltic Sea States, “Handbook for diplomatic and consular personnel”, p. 47.

<sup>13</sup> For more information about how fraudulent documents are used in smuggling of migrants cases, see the background document prepared by the Secretariat entitled “Smuggling of migrants by air and its facilitation through document fraud” (CTOC/COP/WG.7/2019/3).

29. Therefore, efforts to ensure that diplomatic and consular officials or liaison officers in diplomatic and consular missions are well versed in how to detect counterfeit and forged documents, fraudulently obtained genuine documents and the fraudulent use of genuine documents may assist them in identifying cases of trafficking in persons. Where possible, detailed interviews to cross-check documentation and information provided may enhance the detection process. As outlined below, information-sharing between officials from the same State, as well as among States, could facilitate the exchange of good practices in preventing and combating document abuse in the context of trafficking.

### **Provision of immediate protection and support**

30. Victim protection is a core element of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and, as the Special Rapporteur on trafficking in persons, especially women and children, has noted, ensuring the adequate protection of and the provision of assistance to victims ultimately prevents victims from being victimized and trafficked again ([A/69/269](#)). Accordingly, victim protection must be of utmost consideration in the responses of diplomatic and consular officials and liaison officers to trafficking in persons.

31. While most States now have frameworks in place to enable a range of actors to respond to trafficking, translating into action what exists on paper remains a challenge. It is important that States develop identification and referral systems to enable, ensure and promote access by victims of trafficking to their rights. The effective assessment of indicators and strengthened capacity of all front-line actors, including diplomatic and consular officials, can assist in identifying specific vulnerabilities and identifying appropriate means of protection.

32. It follows that vulnerability is central to any understanding of protection needs, with abuse of a position of vulnerability highly prevalent in trafficking cases. The UNODC issue paper entitled *Abuse of a Position of Vulnerability and Other “Means” within the Definition of Trafficking in Persons* (2013) and the UNODC issue paper entitled “International legal definition of trafficking in persons: consolidation of research findings and reflection on issues raised”, provide further information to assist in improving the understanding of vulnerability factors, which may better equip diplomatic and consular officials to identify instances of trafficking.

33. The Working Group has highlighted the importance of victim protection since its inception ([CTOC/COP/WG.4/2009/2](#), para. 13) and, at its last meeting, recommended that States parties should consider informing victims of trafficking as soon as practicable of their right to legal aid and information, including access to consular assistance for foreign victims when requested, with due consideration for compensation ([CTOC/COP/WG.4/2018/3](#), para. 7 (b)). This recommendation came about in the context of overarching discussions on taking a victim-centred approach to international cooperation, the importance of which was confirmed by the Working Group in 2018 ([CTOC/COP/WG.4/2018/2](#)).

34. If a diplomatic or consular official or a liaison officer in a diplomatic or consular mission suspects that an individual is a victim of trafficking, and if this individual seeks help, the official should, with the consent of the victim and with respect for their privacy, provide direct assistance and/or refer the situation to the appropriate services in the host country.

35. Procedures should be in place to ensure that a victim can be immediately provided with information on the nature of the protection and assistance to which they are entitled, including the support provided by non-governmental organizations and other agencies, as well as information on any legal proceedings in which they are involved. It is important that information about such services be delivered in a language that the person understands and that consular services prepare materials in the most appropriate languages, depending on the location of the foreign

representation. Support from non-governmental organizations and other agencies could be key in this process.

36. The Inter-Agency Coordination Group against Trafficking in Persons<sup>14</sup> has also emphasized the importance of providing remedies to victims of trafficking, including for rehabilitation and recovery, which can encompass medical and psychological care, legal advice and social services such as shelter, counselling, health services and linguistic support.<sup>15</sup> There is also widespread support for the granting of a non-conditional reflection period during which victims of trafficking can be assisted in their physical, psychological and social recovery through the provision of essential services.

37. Foreign representatives should also be aware that sometimes, as a result of exploitation, victims of trafficking may engage in conduct that is illegal in certain countries. Common examples include involvement in the sex trade, working without official authorization, the possession of fraudulent documents and/or entering another country in violation of its immigration laws. In many cases, victims will have been compelled to commit these crimes. Although the Organized Crime Convention and the Trafficking in Persons Protocol do not provide specific guidance on the issue of trafficked persons who have committed crimes as a direct result of being trafficked, the principles of non-prosecution and non-punishment have become recognized international standards<sup>16</sup> and can also be linked with article 2 (b) of the Trafficking in Persons Protocol, which states that one of the purposes of the Protocol is to protect and assist victims of trafficking, with full respect for their human rights. The Working Group has also consistently recommended that States parties should consider, in line with their domestic legislation, not punishing or prosecuting trafficked persons for unlawful acts committed by them as a direct consequence of their situation as trafficked persons or where they were compelled to commit such unlawful acts.<sup>17</sup> Diplomatic and consular officials or liaison officers should accordingly ensure that referral to the appropriate protection and assistance services is not made for the purpose of prosecuting or punishing victims of trafficking; nor should referral be made conditional upon agreement by the victim to cooperate with the authorities against suspected traffickers.

38. These issues will also be addressed during the revision by UNODC of two key comprehensive legislative tools, namely, the *Model Law against Trafficking in Persons* and the legislative guide for the implementation of the Trafficking in Persons Protocol.<sup>18</sup> The revisions are being undertaken in order to better reflect the global experience of the past decade and the emerging accumulated knowledge of the global anti-trafficking sector. The revision of the Model Law will emphasize the importance

<sup>14</sup> UNODC is the coordinator and secretariat of the Inter-Agency Coordination Group against Trafficking in Persons, the United Nations main coordination mechanism to respond to trafficking in persons, which consists of 23 United Nations and partner agencies working collectively to improve coordinated counter-trafficking responses. See <http://icat.network>.

<sup>15</sup> Inter-Agency Coordination Group against Trafficking in Persons, "Providing effective remedies for victims of trafficking in persons: issue paper" (2016), p. 11.

<sup>16</sup> See, for example, principle 7 and guideline 8, para. 3, of the Recommended Principles and Guidelines on Human Rights and Human Trafficking; Organization of American States, Conclusions and recommendations of the Meeting of National Authorities on Trafficking in Persons (document RTP/doc.16/06 rev.1 corr. 1), topic IV, recommendation 7; art. 26 of the Council of Europe Convention on Action against Trafficking in Human Beings; European Parliament and Council of the European Union directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; art. 4, para. 2, of the Protocol of 2014 to the Forced Labour Convention, 1930. See also Security Council resolutions 2388 (2017), para. 17; 2331 (2016), para. 2 (d); General Assembly resolutions S-23/3 and 55/67; political declaration on the implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons (General Assembly resolution 72/1), para. 8.

<sup>17</sup> CTOC/COP/WG.4/2009/2, para.12, reiterated by the Working Group in 2010, 2013, 2017 and 2018.

<sup>18</sup> *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations publication, Sales No. E.05.V.2).

of providing for victims' rights in legislation, for example, the provision of assistance and support to victims, both prior to and following formal identification; the right to a reflection period to enable victims to recuperate; the principle of non-punishment; the right to be informed of, and to participate in, criminal proceedings; and the right to remedies.

### **Gender- and age-sensitive assistance**

39. Global evidence continues to show that women and girls are disproportionately affected by human trafficking. This crime remains deeply gendered in its manifestation and constitutes a serious form of violence against women and girls, who represent 72 per cent of identified victims globally, with girls representing almost 77 per cent of the trafficked children identified. Moreover, women and girls together represent 94 per cent of identified victims who are trafficked for sexual exploitation,<sup>19</sup> which remains the most commonly identified form of exploitation globally.<sup>20</sup>

40. While children continue to represent a significant share of identified trafficking victims, as Inter-Agency Coordination Group against Trafficking in Persons issue brief No. 6 on trafficking in children points out, children are too infrequently identified as victims of trafficking. Few come forward owing to fear of their traffickers, lack of information about their options, mistrust of authorities, fear of stigma or the likelihood of being returned to their country of origin without any safeguards, and limited material support. When identification does take place, it is not always prompt or effective, and children suffer consequences in cases where authorities do not put the best interests of the child first and where there is limited coordination between authorities.<sup>21</sup>

41. It is therefore essential that consular staff adopt a gender- and age-sensitive approach when identifying and providing assistance to victims of trafficking in persons. Such an approach does not imply an exclusive focus on women and children, but instead calls for gender and age aspects to be routinely considered. It also requires the different protection and assistance needs of women, men, girls and boys to be taken into account.

42. The Working Group has noted the importance of such an approach on a number of occasions.<sup>22</sup> The Inter-Agency Coordination Group against Trafficking in Persons, consisting of 23 United Nations and partner agencies, in a recent submission to the Committee on the Elimination of Discrimination against Women for the drafting of a general recommendation on trafficking in women and girls in the context of global migration, called for a gender-transformative approach towards prevention of trafficking that requires moving beyond awareness-raising to addressing the deep-rooted gender inequalities that render women and girls vulnerable to trafficking, including gendered poverty, unemployment, unsafe migration, lack of access to education, violence, and overall gender discrimination.

43. The Inter-Agency Coordination Group against Trafficking in Persons recommends that States should adopt and implement gender-transformative approaches to migration policies. Such approaches could include, for example, creating awareness about means for safe migration and equipping women with knowledge about their rights when they decide to migrate, as well as ensuring the effective separation of immigration law enforcement activities from the provision of public services by State and non-State actors, to ensure that migrant women and girls with no legal residency who have been victims of violence, including human trafficking, are able to access essential services. Such services should include sexual

<sup>19</sup> For further information on exploitation, see UNODC, *Issue Paper: The Concept of "Exploitation" in the Trafficking in Persons Protocol* (2015).

<sup>20</sup> *Global Report on Trafficking in Persons 2018* (United Nations publication, Sales No. E.19.IV.2).

<sup>21</sup> See Inter-Agency Coordination Group against Trafficking in Persons, "[Trafficking in children](#)", Issue brief, No. 6 (July 2018).

<sup>22</sup> See, for example, [CTOC/COP/WG.4/2018/3](#), para. 7 (l); [CTOC/COP/WG.4/2015/6](#), para. 26; [CTOC/COP/WG.4/2017/4](#), para. 8 (c).

and reproductive health; trauma counselling; social services; legal support and access to justice, without fear of punishment, detention or deportation. States should additionally establish protocols between immigration enforcement, criminal justice and service providers to ensure that victims can access justice and receive assistance (as noted in the above-mentioned submission by the Inter-Agency Coordination Group to the Committee on the Elimination of Discrimination against Women). Such actions should form part of a comprehensive response to trafficking in persons.

44. Diplomatic and consular officials have a key role to play in acting in accordance with the principle of non-discrimination, with consideration given to the different needs and vulnerabilities of individual persons who they may encounter. This means that measures of protection, support and assistance for victims of trafficking in persons should be available without discrimination on any ground, including sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

45. Diplomatic and consular officials must ensure that children are treated as minors, so that any age assessments are carried out only as a measure of last resort, and in a manner that is multi-disciplinary, scientifically and culturally appropriate, child- and gender-sensitive. In the event of continuing uncertainty, a victim should be presumed to be a child.<sup>23</sup>

### **Safe and voluntary return**

46. Diplomatic and consular officials or liaison officers are uniquely positioned to ensure immediate assistance for victims they encounter. Unlike other providers of assistance, they are also able to function as a “broker” between two options, namely facilitating access to services immediately available in the host country and supporting victims to obtain remedies, but also facilitating voluntary and safe return and repatriation to the home country, where additional options to seek redress and support may be available. Such returns should be undertaken with caution, to avoid re-victimization and re-trafficking.

47. Article 8 of the Trafficking in Persons Protocol requires that any repatriation of victims must be done with due regard for their safety, irrespective of whether they have cooperated in any criminal proceedings. Diplomatic and consular officials should discuss the return process with both the victim of trafficking and the organization overseeing the return process. Officials can assist with preparing documents and travel arrangements, including accompanied return as needed, to provide support and safety. They can also act as a coordinator between the host country and the country of return, drawing upon contacts in both locations. Where return is facilitated, it is important to ensure that someone will be available to meet the victim of trafficking upon arrival, as well as to refer them to specialist service providers in that country. Also, the victim must be fully informed about each stage of the return process, and about their associated rights.

48. For those in need of international protection, diplomatic and consular officials should be in a position to refer victims of trafficking to asylum authorities, bearing in mind the possibility of being recognized as a victim of trafficking, while also being in need of international protection.

### **Capacity-building and technical cooperation**

49. As noted, the Working Group has consistently emphasized the importance of training diplomatic and consular officials in addressing trafficking in persons. This is also in line with article 29 of the Organized Crime Convention, which obligates States parties to initiate, develop or improve training programmes for those charged with the prevention, detection and control of the offences covered by the Convention,

<sup>23</sup> See Inter-Agency Coordination Group against Trafficking in Persons, “[Trafficking in children](#)”, p. 3.

including trafficking in persons. It further obligates States parties to assist one another in this respect (art. 29, para. 2).

50. UNODC has been actively engaged in providing diplomats and consular officials with operational means and good practices to strengthen their capacity to identify and assist victims of trafficking in persons. For example, in 2013, UNODC provided pre-departure seminars for foreign service representatives of the Philippines, which provided an overview of the crime of trafficking in persons and the foreign service's role in combating it, addressed victim protection as a central anti-trafficking pillar, looked at how to identify and refer victims for assistance with an emphasis on repatriation and addressed the issue of slavery and domestic servitude in diplomatic households. A series of regional workshops were subsequently held over the course of 2014 and 2015 for diplomatic and consular staff of the Philippines who had already been deployed in the Middle East and Africa, the Americas and Asia as part of a long-term endeavour in that country's overall strategy for fighting trafficking and protecting its citizens abroad.

51. In 2014, UNODC contributed to a workshop on identification of victims of trafficking in persons for consular staff posted at Indonesian embassies around the world. In 2015, UNODC supported a second workshop in Indonesia for consular staff posted in 21 countries, which provided integrated training on victim identification, including specialized training on identifying victims of trafficking. These workshops were in line with domestic Indonesian legislation requiring Indonesian missions to provide assistance to Indonesian nationals identified as victims of trafficking in persons as well as witnesses of trafficking cases.

52. In July 2017, in coordination with the Ministry of Foreign Affairs and International Cooperation of the Kingdom of Morocco, the International Organization for Migration, one of the three Global Action to Prevent and Combat Trafficking in Persons and Smuggling of Migrants (GLO.ACT) implementing organizations, facilitated an information session on trafficking in persons and smuggling of migrants for over 100 diplomatic and consular personnel of Morocco who were eligible for job transfers.<sup>24</sup> GLO.ACT is a four-year initiative (2015–2019) of the European Union and UNODC, implemented jointly with the International Organization for Migration and the United Nations Children's Fund.<sup>25</sup>

53. In the Niger, in July 2018, UNODC, together with the National Agency for Combating Trafficking in Persons and the Smuggling of Migrants in the Niger, organized a training workshop for 20 Nigerian participants from diplomatic and consular offices abroad, to encourage understanding of their crucial role in the fight against trafficking in persons and to equip these officials with operational means and good practices to strengthen their responses. The training focused on the role of diplomatic and consular representations in guiding, assisting and protecting the rights of victims of trafficking, as well as smuggled migrants.

54. GLO.ACT, together with the Consular Assistance Division of the Ministry of Foreign Affairs of Brazil, organized a conference on "Consular assistance: trafficking in persons, gender violence and related issues" in November 2018 to provide training for consular staff and psychologists working in Brazilian consulates and embassies on the proactive identification of victims of trafficking in persons, as well as the provision of assistance and mental health care. The Conference concluded with a declaration made by the assistance network for Brazilians abroad that are at risk, which included a commitment to combat trafficking in persons.

55. In March 2019, UNODC also delivered an informal training, at the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations (Vienna), to consular representatives from several missions, during which

<sup>24</sup> UNODC, "How training diplomatic and consular personnel in Morocco will help the fight against human trafficking and migrant smuggling", 5 July 2017.

<sup>25</sup> For further information, see web page of the Global Action against Trafficking in Persons and the Smuggling of Migrants (2015–2019), on the website of UNODC ([www.unodc.org](http://www.unodc.org)).

UNODC advised on best practices when identifying and interviewing potential victims of trafficking, as well as referring victims to service providers in Austria for specialized protection and assistance.

### **Information-sharing and cooperation**

56. Many obstacles still hamper national, regional and international cooperation in combating trafficking in persons, including a diversity of law enforcement structures, the absence of enabling legislation and the limits of mechanisms for communication or exchange of information. Having national legislation in place to fully implement the Organized Crime Convention and the Trafficking in Persons Protocol domestically, as well as related cooperation for implementation within regions and between regions, is of paramount importance, as is the development of capacity to cooperate and the adoption of necessary administrative measures to support various modalities of cooperation.

57. As outlined above, foreign service representatives have an essential role to play in the chain of assistance required for victims of trafficking, from identifying potential victims or those at risk of being trafficked, to informing them about the national coordination mechanism or specialized service providers that can offer assistance. Consular officers should also contact relevant authorities in the country of origin and facilitate integration in the receiving State or return assistance to the country of origin. They should also be in continuous contact with the specialized agencies or organizations in the country hosting the consulate or embassy.

58. This requires consular authorities in States of origin, transit and destination to keep communicating with each other, as well as with other actors involved in the counter-trafficking response. States should also continue to develop and improve national action plans and referral mechanisms for coordinated national responses to trafficking, conduct an ongoing self-critique of those responses and dedicate ongoing resources to carry out the associated activities. When a State has the adequate capacity and structure in place, a more effective and comprehensive response will likely ensue when consular authorities refer victims of trafficking to the authorities of the host State.

59. The Organized Crime Convention provides a standing yet underutilized basis for practical cooperation between its 190 States parties as regards trafficking in persons, allowing diplomatic and consular authorities, particularly liaison officers, judicial authorities, law enforcement, border control agencies, and other relevant actors to share information, coordinate operational activities, and support investigation and prosecution efforts to tackle transnational organized crime.<sup>26</sup>

60. Close coordination between a State's trafficking responders and asylum authorities is key, bearing in mind the possibility of simultaneously holding the status of being a victim of trafficking while at the same time applying for, or being granted, asylum. The process for recognition as a victim of trafficking in persons should not exclude participation in the asylum process, nor should a person be excluded from being recognized as a trafficking victim because they are applying for asylum. Training on the nexus between these two processes is recommended. By way of example, the European Asylum Support Office convened a "Thematic meeting on trafficking in human beings and international protection" in Malta on 16 and 17 April 2019, which brought together national counter-trafficking experts, immigration and asylum experts, and representatives of international and regional organizations, to discuss information-sharing between such authorities.

61. Much can be done to improve cooperation between diplomatic and consular staff. As the Working Group on Trafficking in Persons recommended at its sixth meeting, in 2015, "States may consider instructing and training, where needed, their relevant

<sup>26</sup> The *Global Handbook on International Legal Cooperation in Trafficking in Persons Cases*, to be published by UNODC in 2019, provides guidance on how key international cooperation tools can be applied to the investigation and prosecution of trafficking in persons cases.

diplomatic and/or consular staff and may consider, where possible, establishing a network of specialized attachés to prevent trafficking in persons” (CTOC/COP/WG.4/2015/6, para. 14).

62. Diplomatic missions and liaison officers within missions can also play an important role in coordinating cooperation activities. An initial country workshop on analysing concrete trafficking in persons cases in South-Eastern Europe was held in Bosnia and Herzegovina in March 2015, organized by UNODC in partnership with the National Coordinator for Combating Trafficking in Human Beings of Bosnia and Herzegovina, the Permanent Mission of France to the United Nations (Vienna) and the Embassy of France in Bosnia and Herzegovina. The workshop brought together 30 representatives of law enforcement, prosecution, national trafficking in persons coordination, victim protection and civil society entities, as well as international and regional organizations. Following the workshop, a joint investigation team was established between France and Bosnia and Herzegovina, with the support of UNODC and Eurojust. The establishment of the joint investigation team was initiated by a French Liaison Officer in Bosnia and Herzegovina. The coordinated efforts of the joint investigation team led to the arrest, in July 2015, of a network of 12 people trafficking young girls from Bosnia and Herzegovina to France for illicit proceeds totalling more than 2 million euros.<sup>27</sup>

#### IV. Guidance for response

63. The Organized Crime Convention and the Trafficking in Persons Protocol provide a comprehensive legal framework for combating trafficking in persons. Although neither instrument articulate specific obligations concerning diplomatic or consular officers in respect of the identification and support of victims of trafficking, a number of general provisions are applicable.

64. Article 29 of the Convention obligates States parties to initiate, develop or improve training programmes for those charged with the prevention, detection and control of the offences covered by the Convention, including trafficking in persons. It further obligates States parties to assist one another in this respect (art. 29, para. 2).

65. Article 25 of the Convention obligates States parties to take appropriate measures, within their means, to provide assistance and protection to victims; more specific obligations are contained in the Trafficking in Persons Protocol. For instance, article 6 of the Protocol requires States parties to consider implementing measures to provide for the physical, psychological and social recovery of victims. Examples of the types of support to be provided include: appropriate housing; counselling and information in a language that victims can understand; medical, psychological and material assistance; and, employment, education and training opportunities.

66. Article 8 of the Trafficking in Persons Protocol sets out obligations to facilitate the return of trafficked persons to their country of permanent residence, including obligations concerning the issuance of necessary travel documents.

67. The General Assembly has on a number of occasions acknowledged the importance of training consular officials. In its resolution [71/167](#), the Assembly urged Governments to provide or strengthen training for, and to raise awareness among, law enforcement, judicial, immigration and other relevant officials on the prevention and combating of trafficking in persons, including the sexual exploitation of women and girls. It also called upon Governments to ensure that the treatment of victims of trafficking, especially by law enforcement officials, immigration officers, consular officials, social workers, health service providers and other first response officials, is conducted with full respect for the human rights of those victims and with gender and age sensitivity and observes the principles of non-discrimination, including the prohibition of racial discrimination.

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<sup>27</sup> Eurojust, “French-Bosnian human traffickers arrested”, press release of 10 July 2015.

68. Similarly, in the United Nations Global Plan of Action to Combat Trafficking in Persons, adopted by the General Assembly in its resolution 64/293, Member States resolved to strengthen or continue to strengthen the capacity of relevant officials likely to encounter and identify possible victims of trafficking in persons, such as law enforcement personnel, border control officers, labour inspectors, consular or embassy officials, judges and prosecutors and peacekeepers, and ensure the availability of needed resources to the relevant sectors and institutions, including those of civil society.

69. Article 3 of the 1961 Vienna Convention on Diplomatic Relations notes that the functions of diplomatic missions include protecting in the receiving State the interests of the sending State's nationals, within the limits permitted by international law.

70. More generally, the Council of Europe Convention on Action against Trafficking in Human Beings builds on the Trafficking in Persons Protocol and provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for damaged suffered.

71. The Global Migration Group *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations* contain a number of important recommendations relevant to those in vulnerable situations, including trafficked persons.

## V. Key tools and recommended resources

### 1. International Framework for Action to Implement the Trafficking in Persons Protocol

72. The *International Framework for Action to Implement the Trafficking in Persons Protocol* is a technical assistance tool to support Member States to effectively implement the Trafficking in Persons Protocol. The *Framework for Action* consists of a narrative part and a set of tables. The narrative describes key challenges in the implementation of the Trafficking in Persons Protocol and proposes general measures that can be taken in order to more effectively address these challenges. The set of tables details these measures further, through five pillars containing practical actions to support the implementation of the Trafficking in Persons Protocol.<sup>28</sup>

### 2. Anti-Human Trafficking Manual for Criminal Justice Practitioners

73. The UNODC Anti-Human Trafficking Manual for Criminal Justice Practitioners is the result of a global cooperative process in which expert representatives from academia and non-governmental and international organizations, as well as law enforcement officers, prosecutors and judges, from all over the world contributed their expertise and experiences. In line with the Trafficking in Persons Protocol, the purpose of the Anti-Human Trafficking Manual is to support criminal justice practitioners in the prevention of trafficking in persons, the protection of its victims, the prosecution of its culprits and the international cooperation needed to achieve those ends.<sup>29</sup>

### 3. Providing effective remedies for victims of trafficking in persons: issue paper

74. The issue paper entitled "Providing effective remedies for victims of trafficking in persons", developed jointly by the member agencies of the Inter-Agency Coordination Group against Trafficking in Persons, is based on a literature review of international law and jurisprudence that sets out States obligations to provide victims of trafficking in persons with effective remedies. It identifies opportunities and

<sup>28</sup> Available from [www.unodc.org/documents/human-trafficking/Framework\\_for\\_Action\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf).

<sup>29</sup> Available from [www.unodc.org](http://www.unodc.org).

obstacles in implementing those international standards at the national level and identifies some common challenges that victims of trafficking face in accessing remedies.<sup>30</sup>

#### **4. Toolkit to Combat Trafficking in Persons**

75. The *Toolkit to Combat Trafficking in Persons* seeks to facilitate the sharing of knowledge and information among policymakers, law enforcers, judges, prosecutors, victim service providers and members of civil society. Specifically, the *Toolkit* is intended to provide guidance, showcase promising practice and recommend resources in thematic areas. Chapter VI of the *Toolkit* addresses the issue of victim identification and provides reference tools, sets of checklists, indicators, and training material on identification, including screening and interview techniques tips, and forms, for different practitioners. Chapter VII deals with the immigration status of victims and their return and reintegration, and chapter VIII with victim assistance.<sup>31</sup>

#### **5. The Handbook for Diplomatic and Consular Personnel**

76. The “Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking”, published by the Council of the Baltic Sea States Secretariat in 2011, aims to increase knowledge about trafficking in persons among consular and diplomatic personnel and guide them when dealing with suspected incidents of trafficking. It provides tools for consular personnel to properly identify assist and protect victims of trafficking in their daily work and for cooperating with relevant actors. The Handbook outlines legislation and best practice and can be used to shape training curricula for diplomatic and consular personnel.<sup>32</sup>

#### **6. Guidelines for the identification of victims of trafficking in human beings especially for consular services and border guards**

77. The “Guidelines for the identification of victims of trafficking in human beings”, published by the European Commission, especially for use by consular services and border guards, provides links to key resources that consular officers and border guards can access to assist them to better identify and investigate trafficking in persons, while also supporting victims. High-level advice on identification, interviewing and referring victims is provided as is advice on prevention and awareness and data collection.<sup>33</sup>

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<sup>30</sup> Available from [www.unodc.org/documents/human-trafficking/ICAT/ICAT\\_Policy\\_Paper\\_3.\\_Providing\\_Effective\\_Remedies\\_for\\_Victims\\_of\\_Trafficking\\_in\\_Persons\\_2016.pdf](http://www.unodc.org/documents/human-trafficking/ICAT/ICAT_Policy_Paper_3._Providing_Effective_Remedies_for_Victims_of_Trafficking_in_Persons_2016.pdf).

<sup>31</sup> Available from [www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook\[1\].pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook[1].pdf).

<sup>32</sup> Available from [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/cbss\\_handbook\\_for\\_diplomatic\\_personnel\\_2011\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/cbss_handbook_for_diplomatic_personnel_2011_en_1.pdf).

<sup>33</sup> Available from [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/guidelines\\_on\\_identification\\_of\\_victims\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/guidelines_on_identification_of_victims_1.pdf).