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Working Group on Trafficking in Persons

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**Good practices and tools for use in case management,
including by front-line law enforcement authorities
responding to trafficking in persons**

Good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons

Background paper prepared by the Secretariat

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* CTOC/COP/WG.4/2010/1.



I. Introduction

1. In decision 4/4, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime acknowledged that the Trafficking in Person Protocol was the principal legally binding global instrument to combat trafficking in persons. The Conference further decided to establish an open-ended interim working group, in accordance with article 32, paragraph 3, of the Organized Crime Convention, and rule 2, paragraph 2, of the rules of procedure for the Conference, to be chaired by a member of the Bureau, to advise and assist the Conference in the implementation of its mandate with regard to the Trafficking in Persons Protocol.

2. A first meeting of this Working Group was held in Vienna, Austria from 14 to 15 April 2009. It was decided to hold a second meeting of this Working Group in Vienna, Austria from 27 to 29 January 2010.

3. The provisional agenda for the meeting was prepared in accordance with decision 4/4 of the Conference of the Parties, entitled “Trafficking in human beings”, which was adopted at the fourth session of the Conference, held in Vienna, Austria from 8 to 17 October 2008. The present background paper was prepared by the Secretariat to aid in the discussion of provisional agenda item 6.

II. Development of appropriate measures

4. Member States might consider the following points in establishing frameworks and practices in the management of trafficking in persons cases:

- Incorporating a cooperative approach among and between law enforcement agencies and other specialized services, such as victim service providers;
- Incorporating safety measures, in collaboration with all concerned actors;
- Incorporating uniform procedures and policies, specialized calendars, case coordination mechanisms, as well as training of staff, to avoid revictimization and delays;
- Incorporating a gender-sensitive approach;
- Incorporating an approach that addresses the special needs of children.

III. Overview of issues

5. Generally speaking, case management is the institution of specialized processes or structures to ensure the efficient progression of cases through a judicial system and to ensure access to justice. Justice should be about providing a mechanism that produces an acceptable result in the shortest time possible, with the least expense and with minimum stress on the participants. In some instances, participants in human trafficking cases experience something far short of justice in the final outcome. They may be subject to criminal processes fraught with undue delay, case mismanagement, inexperienced court, judicial and prosecutorial staff as

well as instances of intimidation and stigmatization. Case management, if implemented effectively, can help resolve many of these problems.

6. Case management can encompass a number of different concepts but can include some or all of the below structures and processes:

- Case coordination mechanisms allowing for information exchange on cases between different courts and institutions either within the same country or between different countries;
- The establishment of specialized intake units to orient victims of trafficking to court procedures and help them understand their role in the criminal process;
- The designation of specialized judges and/or prosecutors to hear and prosecute human trafficking cases as well as specialized training for court staff;
- Interagency collaboration mechanisms allowing for information exchange between mental health workers, social workers, medical staff, police and prosecutors involved in a case to ensure that the needs of victims are being met;
- Use of uniform procedures and court policies;
- Specialized calendars allowing cases to be expedited through the criminal process;
- A centralized court for hearing human trafficking cases easing access to the judicial process and reducing confusion for victims as to where hearings are taking place;
- Mechanisms for ensuring that orders such as restraining orders, orders for protection and bail orders, if applicable, are monitored and enforced.

7. The ability to implement a case management system will depend on the capabilities, resources and priorities of the institutions involved in handling cases of human trafficking.

IV. Guidance for response

A. Human trafficking cases have particular needs for case management systems

8. Case management systems can have numerous benefits if implemented effectively. Many countries have already instituted such systems for criminal cases involving domestic violence, young offenders and offenders with mental health issues. Much of the same reasoning for promoting management systems in those types of cases are applicable to the implementation of similar systems in human trafficking cases. In addition, human trafficking cases have unique elements that would make the institution of a case management system particularly beneficial. Some of these elements include:

(a) Victim-witnesses in human trafficking cases are often vulnerable and fearful of accused persons as they may have suffered (sexual) assaults and other traumatic experiences and they thus require specialized trained staff to deal with their cases;

(b) Delays in proceedings can cause secondary traumatization to victims of human trafficking as they repeatedly prepare themselves to give testimony and thus experience serious stress and a feeling of loss of control over their role in the process when proceedings are delayed;

(c) As complainants in human trafficking cases are often not residents or citizens of the country in which the court process is taking place, a case should either be resolved quickly or a system whereby the complainant provides testimony at an early stage of the proceedings that will be admissible at a later trial obviating the need for his/her to come back to the jurisdiction to re-testify should be in place;

(d) Victims of human trafficking can be at risk of being revictimized. In order to avoid revictimization and facilitate the court process, collaboration and information exchange is necessary among health workers, social workers, medical staff, police and prosecutors to ensure the safety and physical as well as psychological care of the victim;

(e) The safety of victims of trafficking and their families can be at risk, as they may be subject to threats and intimidation. Court systems should take the safety needs of complainants and their families into consideration and establish specialized protection procedures. In addition, measures such as secure shelters are often needed. A coordinated approach to the case will help ensure that a victim's safety is maintained throughout the criminal process.

9. In addition to all of the above elements, the implementation of a case management system in human trafficking cases sends a vital message to the complainant, to the accused and to the community, that human trafficking is a serious matter that will be dealt with effectively by the courts.

B. Implementation of a case management system

10. How States implement a case management system will depend on their resources and on their priorities. Priority should be given to courts which deal with human trafficking cases on a regular basis. Limited financial resources can cover basic case management measures that include the following:

1. Coordination and collaboration among key actors

11. National coordination and international cooperation among various law enforcement agencies is crucial to address different law enforcement related aspects of human trafficking cases. For example, involvement of specialized police to address financial crimes, of immigration authorities to address immigration violations and to assist victims with immigration issues, of local police to bring to bear their specialized skills with the local conditions and police in other jurisdictions is instrumental in bringing traffickers to justice. In addition to law enforcement cooperation, cooperation among other relevant actors, such as medical personnel, victim service providers (governmental and non-governmental), law

enforcement and other criminal justice actors should be standard procedure from the inception of each case to provide appropriate protection and assistance. Meetings with police investigators and prosecutors should be held regularly and victim service providers should be present at all court appearances if the victim wishes this and if possible under national law.

2. Specialized calendars

12. Among other measures, special deadlines and strict timelines should be spelled out among police, prosecutors, defence counsel and other actors involved in court proceedings to expedite the process in trafficking cases.

3. Specially trained court staff, prosecutors, judges and victim representatives

13. If it is not possible to have the same designated prosecutors and judges always prosecuting and presiding over human trafficking cases, it should be required of all court system staff who may be potentially involved in human trafficking cases that they receive specialized training. The same applies to victim representatives in court.

4. Case coordination mechanisms

14. If a court does not have the capacity to institute a computerized database to collect and share information on cases, it can still designate a staff member as a focal point to ensure that information is shared with other relevant actors and that procedures are coordinated with other countries should a trafficking case have an international element to it.

5. Continuity

15. All prosecutors' offices should mandate that the same prosecutor deal with the same human trafficking case from its inception through to sentencing. Continuity will allow the prosecutor to build a rapport with the victim and will help him/her to gain the victim's trust which is vital if a victim is expected to provide testimony in court and will give the victim a sense that he/she is a vital part of the process. The same applies to victim representatives in court.

6. Uniform procedures and policies

16. Courts can take steps to implement uniform procedures to ensure the victim's safety, including through interagency coordination mechanisms and in cooperation with victim service providers.

7. Safe spaces in courthouses

17. If it is not feasible to create a centralized court for hearing human trafficking cases, local courts can take steps to ensure that there is a safe space in the courthouse for victims of trafficking to sit while waiting to give their testimony, to ensure that the victim and the accused have no contact with each other.

8. Gender-sensitive approach

18. Women need to be empowered to participate in the criminal justice process, or opportunities to bring perpetrators to justice are missed.

9. Sensitivity to special needs of children

19. Children's special needs and their best interests should be given primary consideration. In particular, children's ability to give evidence needs to be assessed. Special protection measures, such as videotaping statements already at the investigation stage should be taken, if possible under national law, to avoid making the child repeat statements. In trial scheduling, cases involving children should be given priority. Importantly, any decision should be explained in a manner that the child can understand.

20. The above are a set of measures that can be easily implemented by a court with limited financial and human resources. Should a court system have greater resources, the implementation of a fully developed case management system for human trafficking cases will be well worth the investment. Not only will such a system result in greater offender accountability but it will also ensure that victims of trafficking have equal access to justice. These goals should be a priority for any court dealing with cases of human trafficking.

Annex

Key tools and recommended resources

Combating Trafficking in Persons: A Handbook for Parliamentarians

The Inter-Parliamentary Union (IPU) and UNODC, in the framework of the Global Initiative to Fight Human Trafficking (UN.GIFT), http://www.unodc.org/documents/human-trafficking/UN_Handbook_eng_core_low.pdf launched the publication Combating Trafficking in Persons: A Handbook for Parliamentarians. The Handbook is intended to inspire Parliamentarians to enact sound laws and adopt good practices that will strengthen national responses to human trafficking. **Section 3.5** concerning Procedural law on trafficking in persons, **Section 4.2** concerning identification of victims of trafficking and **Section 4.3** concerning the Bill of Rights of victims of trafficking address issues related to case management.

http://www.unodc.org/documents/human-trafficking/UN_Handbook_engl_core_low.pdf

UNODC/UN.GIFT Model Law against Trafficking in Persons

The Model Law against Trafficking in Persons has been developed to assist States in implementing the provisions contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing that Convention. It aims to facilitate the review and amendment of existing legislation as well as the adoption of new legislation. Each provision provided in the Model Law is accompanied by a detailed commentary, providing several options for legislators, as appropriate, and legal sources and examples. **Chapter VII** concerning Victim and witness protection, assistance and compensation and **Chapter VIII** Immigration and return of the UNODC Model Law against Trafficking in Persons are of particular relevance to the issues related to case management.

http://www.unodc.org/documents/human-trafficking/Model_Law_against_TIP.pdf

UNODC Trafficking in Persons Toolkit

In pursuit of the goals of preventing and combating trafficking in persons, protecting and assisting its victims and promoting international cooperation to these ends, the UNODC 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 who are working at different levels towards these same objectives. Specifically, the Toolkit is intended to provide guidance, showcase promising practice and recommend resources in thematic areas. **Chapter 5** concerning Law enforcement and prosecution, **Chapter 6** concerning Victim identification and **Chapter 8** concerning Victim assistance are of particular relevance to the issues related to case management.

<http://www.unodc.org/unodc/en/human-trafficking/electronic-toolkit-to-combat-trafficking-in-persons---index.html>

International Framework for Action to Implement the Trafficking in Persons Protocol

The International Framework for Action is a technical assistance tool that supports United Nations Member States in the effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (United Nations Trafficking Protocol), supplementing the United Nations Convention against Transnational Organized Crime (UNTOC). The International Framework for Action consists of a narrative part and a set of tables. The narrative describes key challenges in the implementation of the United Nations Trafficking 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 United Nations Trafficking Protocol. **Table 2** concerning Protection/Assistance, **Table 4** concerning National Coordination/Cooperation and **Table 5** concerning International Cooperation/Coordination are of relevance for issues of case management.

http://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

Anti-Human Trafficking Manual for Criminal Justice Practitioners

The Anti-Human Trafficking Manual for Criminal Justice Practitioners is the result of a global cooperative process in which expert representatives from academia, NGOs, international organizations, law enforcement officers, prosecutors and judges from all over the world contributed their expertise and experiences. In line with the Trafficking in Persons Protocol supplementing the United Nations Organized Crime Convention, the purpose of the Anti-Human Trafficking Manual for Criminal Justice Practitioners is to support criminal justice practitioners in the prevention of human trafficking, the protection of its victims, the prosecution of its culprits and in the international cooperation needed to achieve these goals. **Modules 1-14** of the “wide circulation” version are all relevant to issues related to case management. Please refer also to restricted training modules that are made available only to law enforcement officers and practitioners working in the criminal justice sector.

<http://www.unodc.org/unodc/en/human-trafficking/anti-human-trafficking-manual.html>

UNODC First Aid Kit for use by Law Enforcement Responders in addressing Human Trafficking

People providing first aid, take first steps to identify problems and to stabilize and prepare patients for further treatment by experts. Law enforcement first responders fighting human trafficking carry out similar functions. They take first steps to identify human trafficking, to stabilize and control the human trafficking situation and to prepare victims and pass information on to investigators. The first aid kit is not intended as a substitute for in-depth, specialized response to human trafficking, but is offered as a tool to help persons who may come into contact with trafficked persons, to take the vital first steps necessary to protect victims and catch the criminals involved. **Leaflet 4** on Human trafficking crime scenes, **Leaflet 5** on Identifying human trafficking, **Leaflet 6** concerning Initial Actions **Leaflet 7** concerning Anticipating and dealing with reactions from victims of human trafficking, **Leaflet 8** concerning Child victims of human trafficking, **Leaflet 9**

concerning Dos and don'ts and **Leaflet 10** concerning Referral of cases and victims are of particular relevance.

http://www.unodc.org/documents/human-trafficking/TIP_1st_AidKit_English_V0981429.pdf
