

BEST PRACTICE

Report of the Expert Group on
Strategies for Combating the
**Trafficking of
Women and
Children**



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Best Practice



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Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Introduction

The Commonwealth as a voluntary organisation of sovereign independent States is committed to fundamental principles enshrined in the Harare Declaration of 1991. These principles include international peace and order, liberty of the individual under the law, human dignity and equality for all. Commonwealth Heads of Governments have also pledged to vigorously pursue the protection and promotion of the fundamental political values of the Commonwealth, fundamental human rights, equality of women so that they may exercise full and equal rights and the promotion of sustainable development and alleviation of poverty.

Trafficking in persons, especially women and children, for commercial sexual exploitation is one of the fastest growing areas of international criminal activity and of increasing concern to the international community, including the Commonwealth. Trafficking for the purposes of labour exploitation, forced labour, marriage, adoption and the trade in organs are additional areas of concern, but are less well documented. The overwhelming majority of trafficked persons are women and girls. Consequently, this discussion focuses primarily on strategies to combat the unlawful trafficking of women and children.

At their meeting in Trinidad and Tobago in 1999, Commonwealth Law Ministers noted that the United Nations was preparing an international convention to combat trans-national organised crime with a Protocol to Prevent, Suppress and Punish Trafficking in Women and Children. (Annex). They welcomed the participation of the Commonwealth Secretariat in this work. They also noted the Stockholm Declaration of the World Congress Against Sexual Exploitation of Children in August 1996, which Commonwealth Ministers Responsible for Women Affairs had urged governments to adopt and implement. Law Ministers noted the important legal implications of this multi-faceted problem, and welcomed the action of the Commonwealth Secretariat in commissioning the preparation of guidelines on administrative and legislative measures to address the commercial sexual exploitation and abuse of women and children in the Commonwealth. Ministers expressed the hope that the guidelines, with the already existing Commonwealth schemes for mutual assistance and co-operation in criminal matters, would constitute a solid base for co-ordinated, collective Commonwealth action to fight this abhorrent practice. The proposed strategies are expected to assist

Commonwealth countries to develop national and regional initiatives to combat trafficking.

Trafficking is now considered the third largest source of profits for organised crime, behind only drugs and guns, generating billions of dollars annually. It is also connected to these other criminal activities, with profits from trafficking in persons being used to finance illicit arms and drugs trading. The reasons for the increase in this phenomenon are multiple and complex. However, in general, this criminal activity has taken advantage of the freer flow of people, money, goods and services to extend its own international reach. It feeds on poverty, despair, war, crisis, ignorance and women's unequal status in most societies. The globalisation of the world economy has increased the movement of people beyond and across borders, legally or illegally, especially from poorer to wealthier countries.

The Human Rights Unit of the Commonwealth Secretariat convened a Commonwealth Expert Group on unlawful trafficking of women and children in June 2002, to develop strategies to combat trafficking in accordance with international standards. State and non-state actors in countries of the Commonwealth have invested resources to combat trafficking in various ways and at different levels. These strategies, therefore, are an invitation to practitioners to engage in constructive dialogue on a gender and rights responsive paradigm on trafficking, to identify additional and alternative interventions that might enhance the efficacy of current interventions. The strategies seek to identify guidelines as a development issue within the framework of gender and rights-based approaches drawing on international guidelines. The Expert Group maintains that interventions to address trafficking must be mainstreamed at all levels of government in the development of policies and programmes. Co-ordinated actions at regional and international levels should also be undertaken.

The following people gave their time, expertise and experience freely in participating in the Expert Group to come up with these strategies:

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Chapter 1

Background: Trafficking in Countries of the Commonwealth: An Overview

Definition

According to the United Nation's Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nation's Convention against Trans-national Organised Crime, trafficking¹ in persons is defined as;

'...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 abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal of organs' (Annex)

It is one of the most financially lucrative illicit activities across the world, especially where it involves women and children for commercial sex purposes.

1.1 Contemporary Trends in Trafficking: An Overview

Trafficking in persons, especially in women and in children, is not new. What is new, are the appalling new dimensions it has acquired in recent decades in the context of globalisation. These are:

¹ The consent of a victim of trafficking in persons to the intended exploitation...shall be irrelevant where any of the...[fore-mentioned] means...have been used; The recruitment, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered' trafficking in persons,' even if it does not involve ...[any of the above listed means]. "Child" shall mean any person under eighteen years of age (Art. 3).

1.2 Its growing scale and magnitude

While accurate data is difficult to obtain, given the clandestine nature of trafficking, trafficking especially in women and children is considered to have increased in scale and magnitude. Available data on some countries suggest an estimated 200, 000 women from Bangladesh have been trafficked into Pakistan over the past ten years, and trafficking continues at the rate of 200-400 women monthly. In 1994, some 2,000 women were trafficked into six cities in India. There are about 5,000–7,000 Nepalese women and girls trafficked into India annually. After India, Hong Kong is considered to be the largest market for trafficked Nepalese women.²

1.3 Newer source and destination sites, with people flows from poorer to more prosperous venues

Over the years, trafficking trends have been influenced by a number of factors. These are new destinations for tourists, increasing marketing of sex tourism, poverty due to the persistent occurrence of natural disasters and the opening up of new transport links that facilitate the easier movement of people. The demise of Cold War divisions between the Soviet bloc and the West meant that people were now able to travel more freely between countries which they were prevented from travelling to previously. Unlawful trafficking has taken advantage of these developments and flourished over the years.

1.4 Its diverse and sophisticated mechanisms

Traffickers employ a spectrum of methods to enslave trafficked persons. These are: kidnapping, abduction, rape and sale, material inducements to parents, relatives and guardians to sell women family members, deceit in the form of promises of well-paying, legitimate jobs, better quality of life, residency status in more prosperous countries, or befriending, declarations of love, fake marriages and sale. Newer and more sophisticated methods of force and

² Lim L, 1998; The Sex Sector, International Labour Office, Geneva

violence are being used to facilitate brokering, liaising, and market linkages for the sexual exploitation and enslavement of women and children. These range from international marriage alliances and the mail order bride system³ to the use of Internet services for the global exchange of sex-related services⁴ .

1.5 Manipulation of legal channels

Traffickers manipulate legal migration channels or blatantly defy these by utilising a range of specific mechanisms. Recruitment agencies and intermediaries providing transfer services may be unregistered and hence illegal, or they may be constituted as legal entities taking cover as language schools and vocational institutions which are used as fronts for illegal activities. They manipulate legal migration channels in the following ways:

1.5.1 Regular processes to stay or work

This involves the use of legal entry mechanisms – valid tourist, entertainer’s, student, business or transit visas, visa exemption privileges, visas obtained in transit countries, protection visas, and the open border policy – with the intent of facilitating women’s stay or work in the host country unlawfully. This includes staying in the country after visa expiry, or introducing trafficked persons to criminal activity (pick pocketing, theft, drug sales/smuggling), illegal work (unregistered sweatshops, prostitution) and/or illegal conditions of work, forced and bonded labour.

1.5.2 Irregular processes to stay or work

This may include presenting false, stolen or counterfeited travel documents, using fictitious marriages to mask irregular transfer operations, training and advice to women to make fraudulent claims before authorities, arranging official or unofficial transportation and harbouring facilities, facilitating illegal border crossings by avoiding border controls, illegal work and violative work conditions.⁵ .

³ D’Cunha J, 1998 Feminist Perspectives on Prostitution and Trafficking for Prostitution, in Violence Against Women, Women against Violence, (eds) Kuchedkar and Al-Issa, Pencraft International, Delhi.

⁴ Hughess, 1999, The Internet and the Global Prostitution Industry, in Making the Harm Visible: Global Sexual Exploitation of Women and Girls (eds Hughes D and Roche) Coalition against Trafficking in Women, Kingston, Rhode Island

⁵ D’Cunha 2002, Trafficking and Prostitution from a Gender and Human Rights Perspective

1.6 Its varied purposes

In 1998, the United Nations identified the sex trade as the fastest growing international trafficking business, moving an estimated four million illegal migrants a year.⁶ However, trafficking also occurs for other purposes, such as domestic service, labour in sweatshops and small factories, begging and sale of items (flowers, garlands), marriage, adoption and public sport, such as the use of male children between five and ten years as camel jockeys in camel races in some of the Gulf States. Trafficking for sexual exploitation involves a range of actors: the initial recruiter who contacts the woman; the agent in the country of origin who pays the recruiter, arranges travel documents and holds the women till they are ready to leave; escorts who accompany women to destination sites, often through other countries; brokers who meet the women on arrival in host countries and pay the agent for delivering them; and the owners and managers of sex establishments (either outright mafia or others in league with them) who pay large sums of money to the brokers for the acquisition of the women.

1.7 Changes in the profile of trafficked persons

While sex disaggregated data is difficult to obtain, there is a general consensus that the majority of trafficked persons are women and children. However, men and young boys are also being trafficked. Moreover, the age of trafficked children, especially for sexual exploitation, appears to be getting younger

1.8 Linkages between trafficking networks and sectors of the crime industry and legitimate corporate enterprise

Trafficking for sexual exploitation is closely linked to crime networks involving drugs and gunrunning, car thefts, burglaries, illegal hiring of illegal migrants, corruption, immigration criminality, visa and passport counterfeiting and money laundering.⁷ Drug syndicates reportedly not only traffick women for prostitution, but also push them into the drug business, using them as carriers and users.

⁶ The Age 1999; Our Secret Slave Trade; 21st August, Australia

⁷ International Centre for Migration Development Policy, 1999; The Relationship between Organised Crime and Trafficking in Aliens: Study prepared by the Secretariat of the Budapest Group ;June;Wien, Austria

The expansion and consolidation of the sex industry with its trans-national linkages, and trafficking into this industry, has also been aided by its incorporation into and contacts with legitimate branches of the corporate sector – the tourism, entertainment and leisure industry, the travel and transport industry.

1.9 Strong connections between trafficking networks and centres of political power

Trafficking networks are known to often enjoy high-level political patronage and often rely on the co-operation of public officials/employees who prepare false documents and/or turn a blind eye to violations apparently in return for bribes or other favours. Although it has been difficult to obtain data on profit levels accruing from trafficking in countries of the Commonwealth, UN calculations in 1997 estimate that procurers, smugglers and corrupt public officials engaged in the emerging international trade in human beings extracted US\$7 billion in profits from their cargo. If these calculations are accurate, trafficking in human beings is now more lucrative than the international trade in illicit weapons.

Chapter 2

Toward a Gender–Responsive, Rights–Based Perspective on Trafficking

2.1 What is a gender perspective?

A gender perspective asserts that:

- ◆ there is a distinction between the concepts of sex and gender. Sex refers to the biological (genital & reproductive) distinctions between males and females that are fixed at birth and do not generally vary among human communities. Gender refers to differences in social roles, responsibilities, attributes and conduct deemed socially appropriate for men and women, and to ideas about how behaviour and activities should be valued or censured.
- ◆ gender refers to the relationship between men and women – their relative status and position. Characteristics and roles associated with males and masculinity in most societies are more highly valued and rewarded than those associated with females and femininity. Existing gender relations thus tend to be marked by male dominance and female subordination, which is not biologically, but largely socially determined.
- ◆ prevailing gender stereotypes and women’s lower valued social roles restrict their interactions and mobility, and marginalise them from access to ownership and control over material/non-material resources. For example, women’s gender roles of domesticity upheld in some societies as a social ideal for them, confine them to the unpaid care economy in the household. Lacking a paid economic role, women are dependent on male relatives for basic needs, access to property and other economic resources that ensure a sustainable future. Death, disability or unemployment of their male kin or the latter’s withdrawal of support, renders women – even those in relatively affluent households – economically marginalised and vulnerable. When women engage in paid employment or community work, they tend to be drawn into ‘woman-oriented’ jobs – extensions of conventional domestic roles. They are paid and rewarded less than men for

the same jobs, as their lower valued domestic work and status defines the value of their public sphere activities. Women's needs and concerns thus stem both from the peculiarities of biology, their lower valued social roles and consequent marginalisation relative to men.

- ◆ gender does not exist in isolation, but interacts with other hierarchical social categories such as class, and ethnicity. This raises the question of differences not just between men and women, but between different categories of women arising out of their different social positions (e.g. rich-poor women, white-black women), with poor, ethnically marginalised women being the worst off
- ◆ as gender stereotypes and unequal gender relations are socially conditioned, they can be transformed in the direction of justice, equity, and partnership between men and women.
- ◆ quite obviously, the gender approach, though woman-focused, is not woman-exclusive. It explores the generic and sex/gender-specific differences and inequities in the causes, impacts and consequences of a phenomenon, including differential and discriminatory policy, legal and programme impacts on different categories of men and women. It attributes these distinctions to biological differences and socially constructed gender and other interlocking hierarchies. Being change oriented, it addresses these differences to eliminate gender hierarchies and usher in mutuality. It does this by introducing gender and rights-responsive policies, legislation and programmes supported by appropriate institutions and mechanisms to give effect to these. This provides a 'formal equality of opportunity' for men and women. It also addresses changes in male-defined institutional rules, procedures, mindsets and practice at all levels and in all spheres of society. This ensures equality of access and results – real and substantive equality – and may include special short-term affirmative action measures for women to compensate for a long history of disparity and disadvantage.
- ◆ a gender perspective on trafficking addresses the sex and gender-specific differences and inequities in the magnitude, causes, impacts and consequences of trafficking, including differential and discriminatory policy, legal and programme impacts on trafficked men and women. It grounds these in a combination of biological differences and socially constructed gender and other interacting hierarchies.

2.2 Sex disaggregation in scale and magnitude

It is difficult to find accurate sex-disaggregated data on the magnitude of trafficking. But available evidence and general consensus suggests that women and children are the majority of trafficked persons.

2.3 Gender and rights issues which could impact on trafficking

Complex interacting socio-economic-political structures, processes and relationships, underscored by class, gender and ethnic concerns lay the ground for trafficking. There are two sides to this: the supply and demand side.

2.3.1 On the Supply Side

Gendered development processes that marginalise women from education and employment, thereby enhance gender inequities and feminised poverty. While globalisation has created social and economic opportunities for educated middle class men and women, poor unskilled women workers have been among the first to suffer retrenchment and unemployment. They have, as a coping strategy, gravitated to and dominate the informal labour-intensive manufacturing and service sector at the lowest end of the economic hierarchy. Furthermore, the withdrawal of state subsidies for public services (e.g health and education) and their privatisation, has transferred the socio-economic costs and burdens of providing these to women, as caregivers. In a male privileged culture, women and girls are more marginalised than men and boys from costly healthcare and education. More girls than boys are being withdrawn from school to assist in 'feminine' tasks of household management, family care and sub-contracted homework alongside their mothers, to augment family income. This reduces their opportunities for better jobs and makes them more at risk of being trafficked than men.

◆ Vulnerability due to human-created catastrophies

These situations tend to create a skewed demographic balance in favour of women, the aged and children, and a sharp increase in woman-headed households. The disintegration of 'normal-time' family, community and state support systems, prompts women to flee in desperation with their children in search of physical and economic security, rendering them more vulnerable than men to traffickers.

◆ Discriminatory cultural practices, dysfunctional families and gender-based discrimination

The death of parents, guardians and male breadwinners, child abuse and incest, marital discord, domestic violence and marital disintegration create emotionally and economically vulnerable women and children. Traffickers prey on them as they try to escape oppressive situations.

- (a) Contrasting evaluations of a son's and daughter's role/status in patrilineal family systems, generate a culture of son preference. In addition, daughters are perceived as a liability to the natal family encumbered with marrying them off early and appropriately, ensuring their pre-marital sexual purity, providing hefty marriage expenses and other material resources on auspicious occasions to the daughter's marital kin. When an opportunity presents itself, poor families in particular may be willing to trade unwanted women and girls with little thought for their rights or future well-being. Examples are: sale of women and girls into marriage, willingness to marry women/girls off even to strangers who make no monetary demands, thus predisposing them to trafficking, sale of women and girls into prostitution when sexuality acquires an attractive market value.
- (b) Women and girls are manipulated by consumerism and perversion of family values to fulfil family needs and consumption in the name of cultural tradition – duty, care, and gratitude – even if it means being sold into prostitution.

2.3.2 On the Demand Side

On the *demand* side, structural adjustments and changes in the relative shares of economic sectors fuelled by globalisation have caused changes in the international division of labour and labour market demand. This has occurred in a context of sharpening structural inequities between regions and countries. The greater demand for trafficked women and girls, relative to men and boys, has largely occurred in response to this demand-driven reality. This is marked by:

◆ Employment opportunities for women

- (a) the emergence of labour intensive export-oriented production; cost-effective, sub-contracted, flexi production in the burgeoning informal sector. The latter is characterised by low wages, casual jobs, hazardous work conditions and an absence of collective bargaining mechanisms.

Women are preferred in these sectors as they are viewed as submissive, suited to simple repetitive tasks, abundant and needy, cheap and pliable.

- (b) the development of the 'feminised' service sector, including the growth of the billion dollar entertainment and sex industry. The industry is predicated on male-centred ideological assumptions: that sex is a male right and a commodity, that commercial providers of sex services are largely women, that women in prostitution exist as sexualised and commodified bodies functional to that male right.
- (c) tight labour market conditions in newly industrialising countries like Singapore and Hong Kong, that have drawn educated middle class women into the workforce. This, coupled with a scarcity of and disdain by local labour for low status domestic work, has raised the demand for foreign domestic help to take over these domestic and care-giving roles.

◆ **The role of the State**

Some manifestations of this in relation to trafficking are: economic and political tradeoffs between traffickers and public officials, the lack of political will to regulate recruitment agencies and impose sanctions against traffickers and unscrupulous public officials. While trafficked persons are treated as criminals; male bonding has the belief that prostitution is a 'necessary social evil' that is here to stay, that women in prostitution are 'moral degenerates'. These have made trafficking and institutions into which persons are trafficked low risk and high profit enterprises, reinforcing the violation of trafficked persons, especially women and children, with impunity.

◆ **Restrictive immigration laws and policies**

Restrictive immigration laws and policies are obstacles to the high demand for cheap unskilled labour in host countries and a large supply of human power from source countries to meet this demand. This helps generate a lucrative market for traffickers. Poor women job-seekers, particularly from remote rural areas with less access to information on migration/job opportunities, recruitment channels/procedures, less access to decent, non-conventional, legitimate jobs, and who are less worldly-wise and confident than men, are at a higher risk of being trafficked in these situations. Restrictions also take the form of complete bans or age, occupation and country specific bans by the source country on women's out-migration, rationalised as a 'protection' against trafficking. Such measures, while

raising the demand for illegal migration often provided by traffickers, also marginalise women from access to pre-departure orientation and information that may help them deal with potential exploitation.

◆ **An impoverishment of human values**

- (a) The overwhelming emphasis on capital accumulation, material acquisition and status, regardless of the means to this goal, results in rights violations. This is functional to the preservation of economic and social hegemony.
- (b) Host country realities are distorted and deceptively romanticised as economic gold mines or havens of refuge. This renders poor marginalised women, with less access than men to reliable information, public sphere knowledge and operations, and more vulnerable to trafficking.

2.4 Gender specific violations and their impacts

Violations in jobs and institutions into which women are trafficked – personal domestic services in the case of domestic work, or intimate bodily and sexual services, as in the case of prostitution – intrude into and invade a woman’s privacy and entire being in ways different from men working at construction or manufacturing sites. Individualisation, moral castigation, illegitimacy and invisibility, coupled with overlaps in living and work space, characterise these jobs and exacerbate abuse. This is manifested in greater physical confinement; more stringent surveillance and control over women’s personal and work lives, bodies and beings; and women’s greater subservience and debt bondage. It intensifies exploitation for women – longer hours of work, no time off and innumerable clients.

- ◆ Though both men and women are trafficked into low wage, unskilled jobs, women’s jobs are paid less than men, considered as consistent with their ‘innate nature’.
- ◆ Women’s greater isolation, control by criminal networks in the sex sector, coupled with concerns common to men – language and cultural barriers – makes women’s escape and access to external support and assistance more difficult.
- ◆ There is an absence or lack of legal protection or support services for trafficked persons in most host countries. Examples are the treatment of trafficked persons as criminals, trauma counselling services, especially for those suffering sexual violation and severe abuse, safe witness protection

programs, voluntary repatriation instead of arrests and immediate deportation, and lack of support services for those deciding to stay.

- ◆ The personal as well as the social costs to the family and community are perhaps higher in the case of trafficked women than men, and female spouses left behind. These are:
 - (a) Preoccupation with sending trafficked women and girls, especially those rescued from prostitution, back to families, or exploring ‘marriage alliances’ for them. This often constitutes part of the ‘moral rehabilitation’ package that marks integration measures for women. By contrast men tend to be sent straight back to the country of origin.
 - (b) Estrangement of children from the mother, combined with the lack of paternal involvement in childcare and domestic responsibilities. This exacerbates the adverse emotional impact on children. Children may be hostile to the mother, taking an emotional toll on her.
 - (c) Marital instability and discord that may take the form of the husband’s alcoholism, infidelity, violence, desertion and divorce, when the woman returns home after a long period of separation. This increases women’s economic and emotional burden.
 - (d) Greater stigmatisation of women returnees, especially those who are physically or sexually abused, or return psychologically scarred.

2.5 A gender-responsive approach is a rights-based perspective

A human right is generally defined as a fundamental human entitlement that expands human choices, and enhances human well-being and fulfilment. Human rights are inalienable, universal, indivisible and interdependent. A gender-responsive approach is necessary as is a rights-based approach. The gender discrimination against women and girls outlined above is now recognised as a fundamental denial of human rights. As the UN Commissioner for Human Rights observed, women’s human rights must lie at the core of any anti-trafficking strategy.⁸

⁸ Office of the High Commissioner for Human Rights, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Approved by General Assembly resolution 317(IV) of 2 December 1949, entry into force 25 July 1951, in accordance with article 24 <http://www.unhcr.ch/html/menu3/b/33.htm>

The converse also applies: women are human beings, although differently situated and inequitable in relation to men in terms of their gender roles and the impact of gender stereotypes. They thus have different needs. Therefore, a human rights-based approach to trafficking must also be responsive to gender differences and disparities, and focused on realising human rights equally for women and men.⁹

2.5.1 Elements of a gender-responsive, rights-based approach

- ◆ Inalienability, universality and indivisibility of women’s rights.
- ◆ Recognising and guaranteeing new woman-specific rights in the private sphere such as reproductive rights, the right to freedom from domestic and other forms of gender-based violence that are often factors predisposing women and girls to trafficking.
- ◆ Addressing the different impacts of rights violations on women, because of their different and lower-valued sex and gender roles.
- ◆ Addressing the individual and structural dimension of rights (the socio-economic, political structures and processes at the macro, intermediate and micro levels that create vulnerability to trafficking).
- ◆ Rights are closely linked to the concept of empowerment, and together include the following elements:
 - (a) the legal or institutional element:
 - (i) defining the right through standard setting and codifying them in law and policy;
 - (ii) developing appropriate and enabling institutions and machinery to give legal effect to these rights;
 - (b) the empowerment element: women’s and girls’ gender and rights awareness, individual and collective claims through a process of self representation.
 - (c) the enabling policy, institutional, social environment element that results in substantive rights and gender equality.

⁹ D’Cunha J, 2002, Trafficking and Prostitution from a Gender and Human Rights Perspective

(d) the element of responsibility and duty on the part of the State, (and a division of responsibilities) to respect and ensure respect for human rights law, including the duty to prevent violations, to investigate violations, to take appropriate action against the violators and to afford remedies and reparation to those who have been injured as a consequence of such violations. Where responsibility cannot be clearly identified between countries of origin, transit or destination, the international community perhaps has a responsibility. The rights of the trafficked must be prioritised at all times.

2.6 Gender and rights: promoting protection

Protection for trafficked women and children must be gender-responsive and rights-enhancing. However, mainstream approaches in the name of protection tend to impose bans and restrictions on women from doing certain things, control and correct women, provide services with a paternalistic benevolence that treat women as passive beneficiaries. They thus reinforce traditional gender stereotypes and are incompatible with a gender and rights approach. By contrast, a rights-based approach will ensure that unsafe and discriminatory environments should be controlled and changed. Women's capacity to cope with this environment should be enhanced. Provision of assistance and services to trafficked women or potential victims should be seen as a state obligation, given its failure to provide better livelihood opportunities and choices, and is a woman's right.

Strategies for combating the trafficking of women and children in the Commonwealth, can be separated into four main categories; Prevention Strategies, Assistance to Victims of Trafficking, Research Database and Other Strategies, and Treatment of Child Victims.

We will examine each of them in turn.

Chapter 3

Prevention Strategies

Strategies aimed at preventing trafficking in women and children can be viewed as the most crucial, yet least addressed area in terms of combating the phenomenon. Focusing on prevention and strengthening existing strategies in this area must centre on ensuring that vulnerable groups are empowered to access alternative livelihood options in their home countries, instead of being forced to seek ‘greener pastures’ abroad. Prevention strategies can be targeted at the following areas: economic empowerment, education, advocacy and awareness raising and reducing demand in countries of destination.

3.1 Economic Empowerment

Economic empowerment for self-reliance requires that Member countries of the Commonwealth introduce and review (existing) policies and legislation relating to a number of issues that affect the livelihood options of women and children. This review should include a gender analysis of macro and micro-economic plans, their implementation and differential impacts on women and men.

Legal reform should also incorporate a gender and rights based perspective, having regard to the fact that women are, in most cases, marginalised in our societies. For example, property and inheritance laws and procedures should be reviewed and adjusted to ensure that they do not include provisions which have a discriminatory impact on women and their livelihood options.

Expansion of employment opportunities for women in non-traditional sectors, consistent with market needs and demand, is essential to improving the economic status of women and girls and reducing their vulnerability to trafficking. Examples of this include incorporating affirmative action policies to ensure that women are represented at all levels of employment and decision-making and enacting appropriate employment legislation promoting equal opportunities and remuneration. Initiatives, which continue to position women in stereotypical, gendered, low-pay and low-status roles, are bound to fail. Examples of gender-sensitive training include the promotion of women in business entrepreneurship and the development of information technology, both of which are market driven.

Women entrepreneurs should be encouraged to form associations, which are essential for policy advocacy and support networks. These will act as conduits for concerted approaches in promoting women's economic interests.

It is important to incorporate gender awareness in the training of institutional service providers; policy makers on the economic and financial front such as financial lending institutions, household and community members and leaders.

3.2 Education

Awareness of, and sensitisation to, the issue of trafficking, particularly its adverse impact on the rights of women and children, is an important element of prevention. Despite recent efforts by NGOs to raise awareness, particularly among vulnerable groups, greater attention and resources need to be allocated to this within the Commonwealth countries where the problem of trafficking is prevalent. Governments should play a key role in this.

It is further recommended that any gender and rights training must embrace legal literacy on economic rights particularly for women. There is insufficient knowledge and information for potential victims to make informed decisions that affect their lives. Most trafficked persons believe that they are going to be working in domestic service, waitressing, dancing, babysitting, and that they will be well paid. The reality is often forced prostitution. For those who are aware of the nature of the work in the sex industry, they are usually deceived about their abusive working conditions (debt bondage, travel documents removed, inability to refuse clients and unprotected sex).

Efforts should be made to raise awareness in communities and peer groups at all levels. Vulnerable groups should be targeted as priorities. In doing so, potential victims will be made aware of the dangers of trafficking and be able to make a more informed decision regarding potential migration.

The media has an important role to inform and educate the public through newspapers, radio and other modes of communication, and should be targeted as a key partner in combating trafficking. It is recommended that media practitioners should first be educated with regard to the phenomenon and its complexities, in order to ensure that they more accurately inform the general public.

Education, at primary and secondary level, should be guaranteed and made accessible to all young people. It is recommended that Commonwealth

countries consider the introduction of free primary and secondary education as a basis for individual and national empowerment and development. Education syllabi should be revised to incorporate human rights and gender-sensitive concerns at school and university level.

Member States are encouraged to introduce institutionalised gender and rights training programmes for public office holders and law enforcement personnel such as the police, immigration, and customs officials. Sensitisation is required in order to promote greater understanding of the issue and, consequently, enhance the safety and well-being of trafficked persons.

Training should also be provided on investigation and prosecution techniques with recourse to the practical, and psycho-socio needs of the victims. The human rights approach by law enforcement officials means that measures dealing with trafficking as a security problem will recognise and respect women's rights and dignity as 'victims' instead of as perpetrators.

Sensitisation of government departments that have the potential to assist in combating trafficking, through mainstreaming gender and human rights training, is essential for prevention. Examples of such departments or Ministries are health, education, community and social services, tourism, trade, immigration and justice. It is important to realise that within the existing mandates of these departments, policies that discourage trafficking, child labour and prostitution can be developed and implemented, especially in the tourism and trade sectors. Current trade and tourism policies in some Commonwealth countries have a negative impact on the respect and protection of women's and children's rights. One consequence of this is the growth in sex tourism.

Education and the awareness-raising of trafficking should be aimed at the tourism industry, including airlines, hotels, travel agents, bars, package holiday companies, etc.

Governments are encouraged to support resocialisation, awareness-raising, gender sensitisation and counselling programs for arrested clients, perpetrators or potential perpetrators of violence, including trafficking. One example of good practice is a human rights NGO called SAGE, based in the USA. They work to raise awareness of the impact of sexual exploitation and trafficking on women and girls, and run a First Offenders Prostitution Programme. Here male clients learn the negative consequences of prostitution.

3.3 Legal Intervention

Commonwealth countries are encouraged to adhere to international standards of dealing with the problem in the implementation of national plans of action and general programmes. Member States are, therefore, called upon to sign and ratify all international instruments relating to trafficking, in particular, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children. Further, Member states must review and reform the existing domestic legislation on trafficking and related policies from a gender and rights perspective in accordance with the Protocol on trafficking, the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination against Women. (CEDAW)

Where necessary, new legislation on anti-trafficking must be enacted in line with the Protocol on trafficking. Policies on immigration and labour must be reviewed in their entirety to take on-board suggested best practices. The content of domestic trafficking legislation must strictly criminalise traffickers including agents or middlemen, brothel owners and managers, as well as institutional networks that are used in organised crime.

Stiffer punishment must be introduced to reflect the serious nature of the crime. This must include the introduction of penal sanctions against persons holding political office, those in custodial positions and law enforcers who are directly involved in, or collude with traffickers and other perpetrators of commercial sexual exploitation

Provisions for the confiscation of assets for the benefit of 'victim services', such as compensation funds should be enacted. Confiscated assets could also be used towards funding service provision and reintegration for victims of trafficking.

Trafficking, being an international crime, deserves special consideration with regard to the review of extra territorial laws on extradition and penalties.

Victims of trafficking should be decriminalised and provided with free legal assistance. This should include information on their rights and access to legal redress and court proceedings, in a language they will understand.

The privacy and identity of victims of trafficking must be protected at all times to safeguard them from attempts at retaliation by their traffickers.

Victim witnesses need state protection if they are to testify safely in criminal proceedings against traffickers. It is therefore essential that witness protection programmes be developed to protect victims and their families, who may face retaliation and threats from traffickers in their country of origin. States should ensure that such programmes do not violate the dignity and rights of the victims.

The collection of evidence and its preservation must not depend exclusively on testimony given by the witness, but should be intelligence-led. Reliance purely on victim testimony is bound to failure, as most women are too frightened of retaliation, and unlikely to testify. Overburdening the witness as the only source of evidence, when she is a victim, tends to disregard her interests as a person whose rights have to a great extent, already been violated.

All States are called upon to ensure community participation in the formulation and enforcement of laws relating to trafficking. Without the involvement of the community in fighting trafficking, very little can be achieved.

3.4 Advocacy and Awareness Raising

In order to give efforts against trafficking prominence, there must be public awareness-raising with regard to trafficking, from a gender and rights perspective. The media has an important responsibility in informing the general public of this. Other sensitisation programmes should target government officials, peer groups, schools, travel agencies and tour operators including airline personnel.

A code of conduct for officials and service providers, who are in contact with or likely to come into contact with trafficked persons, should be developed. This should cover human rights standards for the treatment of trafficked persons, interview procedures, referral to other service providers, provision of information, etc. The Global Alliance Against Trafficking in Women has developed human rights standards for the treatment of trafficked persons.

Non-Governmental Organisations are encouraged to continuously lobby for the review of legislation and policies that affect the rights of women and children.

3.5 Reduction of Demand (in the country of destination)

At the centre of trafficking in women and children is the ever-increasing demand for diverse, cheap (and increasingly underage) sex and other labour services from migrants in countries of destination. Prevention of, and combating, trafficking in persons, particularly women and children, means addressing the demand which fuels this trade in people. Article 9 (5) of the UN Protocol to Prevent, Suppress And Punish Trafficking in Persons, Especially Women and Children, asserts that;

“States parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral co-operation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”.

Perpetrators of the crime must be investigated and prosecuted. Stronger penalties/prison sentences, commensurate with the serious nature of the crime, should be imposed in order to deter would be offenders.

Military and civilian clients who procure the services of trafficked women should be penalised, with aggravated penalties for clients who sexually exploit minors.

Those who abuse their position of authority and status as ‘protectors’ (UN personnel, military personnel, Police etc) should be subject to aggravated penalties.

The education and resocialisation of men who are actual or potential clients is an important factor in targeting demand. Awareness programmes should be developed targeting sex sector clients to educate them regarding the negative impacts of trafficking and prostitution on women and children. Men in particular should be targeted to work as peer educators among male clients. Good practice in this area includes the NGO SAGE in the USA, which runs a First Offenders Prostitution Programme, teaching male clients about the negative consequences of prostitution.

It is also important to ensure that extra-territorial laws have adequately addressed the issue of how to reduce demand in domestic laws.

Governments should be accountable and transparent with regard to the benefits and income it derives from the sex trade. The global sex industry generates billions of dollars each year, which governments as well as international criminal groups benefit from. This information should be available to the public.

Governments should target negative advertising, which uses highly sexualised and racist images of women and girls, particularly within the tourism industry. Governments are also responsible for ensuring that their own departments adhere to responsible advertising campaigns to attract tourism. Therefore, independent advertising standards committees should be set up to monitor and ensure ethical standards.

Governments and NGOs should work together to raise awareness of trafficking for sex tourism through campaigns targeting the tourism sector (airlines, agencies, hotels, bars, clubs, restaurants, etc).

Chapter 4

Assistance to Victims of Trafficking

4.1 Country of Origin

States are called upon to provide safe accommodation, and ensure that essential services are readily accessible. These should include:

- ◆ Psychological/counselling services for crisis intervention and longer-term counselling;
- ◆ Referral to health services for assessment and care if required;
- ◆ Access to free legal assistance and information;
- ◆ Financial assistance for subsistence;
- ◆ Police protection/assistance in situations where the victim or her family are at risk of retaliation from traffickers.

Individual care plans focusing on physical and psychological needs as well as training/education needs should be developed.

In order to protect the rights to safety and privacy of victims, and to prevent stigmatisation, criminal proceedings against traffickers should enable the victim to provide 'in camera' testimony in court.

4.2 Country of Destination

In most countries of destination, victims of trafficking are hastily deported back to their countries of origin without regard to the potential dangers they may face, and without regard to their physical and psychological needs. Suspected trafficked persons must not be detained, charged or prosecuted for illegal entry into countries of destination, or for involvement in illegal activities related to their position as victims of trafficking.

It is recommended that the victims be given temporary legal assistance in order to:

- ◆ Assess and attend to their immediate physical and psychological needs, including the victim's safety.
- ◆ Enable the victim to recover and make a more informed decision on whether to give testimony. Because of the potential safety repercussions of this to the victim and her family are so great, she must be allowed time and sufficient information on which to base this decision.

It is recommended that a 3 month reflection delay be implemented, based on the above decision. During this time, the victim should have access to essential services including:

- ◆ Safe accommodation.
- ◆ Health and counselling services. HIV testing must always be voluntary and strictly confidential. HIV positive victims must be provided with support, treatment and counselling.
- ◆ Free legal information and advice in a language that is comprehensible to her. At each and every stage of the investigation and subsequent criminal proceedings, there is need to ensure that the victims understand the processes fully.
- ◆ Access to interpreters
Victims giving testimony should be part of a witness protection scheme. National governments should consider establishing mechanisms for legal redress. Assets confiscated from traffickers could be used to compensate the victim for violations of her rights, or to invest in the provision of services for victims of trafficking.
- ◆ Contact and co-operate with and referral to relevant service providers in country of origin, including consular services.
This is necessary in order to prepare for the return and reintegration of the trafficked person, including safe passage and immediate assistance on return, if indicated and if desired by the woman. For women who do not want such assistance, they should be provided with the contact details of organisations that can offer them assistance and support at a later stage, if required.

4.3 Rehabilitation and Reintegration

The rehabilitation and reintegration of victims of trafficking may be a long-term process and, as such, must be planned, taking into account the specific short and long-term needs of individual victims. Efforts must be non-punitive and aimed at protecting the rights of the victims.

Victims should be provided with secure temporary accommodation with access to legal, medical and counselling services in order to begin the process of coming to terms with the physical and psychological trauma experienced in order to start to restore self-confidence and self-esteem. Special care and attention must be provided for those who have contracted HIV/AIDS.

Victims of trafficking are often frowned upon as outcasts in the communities they return to. Efforts to reintegrate trafficked women often require community support and participation. This means preparing families and communities through enhancing their awareness of trafficking generally and of the impact of trafficking on the individual. Sensitising families and communities is integral for ensuring understanding, acceptance and the prevention of re-trafficking.

Assessment of community coping mechanisms and existing social structures should be carried out. Within the communities, social, religious and political leaders and institutions should be encouraged to assist in changing people's attitude towards victims.

States should enable victims of trafficking to access both formal and non-formal education structures. Formal education should be available to those victims who are still within the school-going age, while non-formal education should be made accessible to adults.

In order to encourage enrolment and attendance, incentives such as free tuition and special grants should be introduced. This will encourage parents to send their daughters to school as part of the reintegration process.

Gender-sensitive, market-driven vocation training should be widely available, and could include training targeted at agriculture, micro-credit, information technology and financial management. Government and non-government actors should work together to develop partnerships with public and private sector employers in order to facilitate/devise training and work placements as part of the reintegration process.

It is important to follow up on the progress being made. As such, governments and NGOs need to develop mechanisms for assessing the effectiveness of rehabilitation and reintegration efforts.

Chapter 5

Research and Database

For the effective planning and implementation of policies against trafficking of women and children, it is imperative to collect and analyse data relating to the phenomenon. Information gathering is crucial in developing any strategies for combating trafficking.

Information gathering should be more focused and effectively co-ordinated, aimed at influencing policy (change) and filling existing gaps in the available initiatives and efforts against trafficking. Such information should cover a wide area including causes, types and modes of trafficking, community responses to trafficking, gender differences and specific gender-based violations and analysis of the operations of trafficking syndicates.

Research work must be of high quality with clearly defined, appropriate and feasible methodology and objectives. It must also be ethical and reliable with statistics on race, age and sex.

The collection of the information should result in the development of a national database and a centralised info-focal point. This should include information relating to victims' country of origin, transit and destination, trafficking routes, methods and means, trafficking patterns and dynamics, cross-border trade, numbers and outcome of prosecutions.

Research should be conducted on other related issues, for instance Internet pornography, child trafficking, macro-economic policies and impact on trafficking migration, sexuality in prostitution as well as the relationship between trafficking and government income. Government sources should be willing to readily provide relevant information during data collection.

The analysis of collected data should focus on formulating gender-sensitive policies on measures against trafficking. Special consideration should be given to the development of strategies that are directed at prevention. The NGO community has an important role in the collection of data, through the provision of information to relevant government authorities for action.

The publication and dissemination of the research findings to all stakeholders is vital in enabling stakeholders to formulate appropriate strategies against trafficking. Stakeholders should be encouraged to use the national database for their interventions on the problem.

5.1 Donor Responsibility

Donor funding has increasingly become difficult to source due to the general global economic slump. At the same time, there is often overlapping in donor-funded research and activities. It is suggested that there must be greater co-ordination among donors in order to prevent such overlaps.

Availability of donor funding should not depend on the national interests of the donor but on the extent to which the project proposal responds to priorities outlined in national plans of action.

More funding should be made available to local NGOs working at grassroots level to combat trafficking and empower women and children more generally. Currently, there is a preference among donors to fund national NGOs rather than local organisations, which undertake most of the work at grassroots level. Donors should review and co-ordinate their selection processes to eliminate this bias, which is counterproductive.

It is recommended that donors develop a global anti-trafficking database of initiatives and projects to avoid replication. This should be accessible to all stakeholders involved.

Donor funding must be directed to activities implementing measures against trafficking.

Trafficking is an international cross-border crime and, as such, must have an international approach. It is therefore necessary to mainstream anti-trafficking initiatives into international programmes currently being sponsored by donors.

Chapter 6

Treatment of Child Victims

The Expert Group took cognisance of the fact that because of the psychological, mental, physical and psychosocial effects and suffering on children as a result of trafficking, there is need for special consideration in the development of approaches to combat trafficking aimed at children. At the centre of any initiative dealing with any problem relating to children is the welfare and the best interests of the child itself.

In countries where trafficking is prevalent, States should put in place measures aimed at identifying child victims and accord them all the support, care and attention they need in order to re-integrate them into society.

Child victims must never be prosecuted in relation to trafficking and must always be protected at all stages of criminal proceedings on trafficking. States must introduce measures to protect the best interests of the child at all stages of the criminal processes against alleged offenders, regardless of whether the child is used as a witness in the proceedings or not.

Member States of the Commonwealth are therefore called upon to put in place specialised policies and programmes aimed at protecting children from becoming victims of the illegal trafficking business, and also programmes of support and care of child victims of trafficking that take into account the children's special needs. In this regard, it is important to increase awareness and education in order to prevent child trafficking.

It is also recommended that the protection and privacy of children must always be respected at all times when dealing with child victims of trafficking. Any information leading to the identity and details of the child victims must be withheld.

Commonwealth countries are also encouraged to ensure that adequate arrangements are made for the safe return of child victims to their families or relatives. It is incumbent upon the State to trace the child's family or relatives. Proper investigations should be undertaken with regard to the complicity of the family or relatives in respect of trafficking. In cases where relatives cannot

be traced, or it is inappropriate to return children to their relatives, every effort should be made to provide alternative care homes where the rights and best interests of the children will be respected. Proper procedures for adoption and foster homes should be encouraged.

Sometimes a child victim would be capable of expressing his or her own views on issues surrounding him/her. In that case, the child should be allowed to do so without any hindrance. It is important to recognise that the child has the right of free expression on matters that affect him or her. However, due consideration of such views must be done with regard to the child's age and maturity.

Chapter 7

Conclusion

Trafficking is an increasingly important development issue, particularly for many of the poorest countries in the world. Trafficking in women and children is a major component of global trafficking, although the precise magnitude cannot be known due to the dearth and unreliability of data. Sex trafficking in women and children is similarly a significant component of global trafficking. Despite the dearth of accurate data, it is clear that it is on a scale and of a nature to be of major concern to the governments involved, either as source or destination sites. It is also clear that trafficking in general, and this category of trafficking in particular, involves fundamental violations of human rights. At the international level, this concern and understanding was reflected in the active negotiations on the new Trafficking Protocol to the UN Convention Against Trans-national Organised Crime 2000.

Although a major focus of anti-trafficking activities centres on women and girls, and the international community is generally aware of the rights violations involved, trafficking projects, programmes and interventions remain largely gender-blind and are often incompatible with a rights-based perspective. The Strategies set out for policy makers and project and programme managers the basic requirements for a gender-responsive and rights-based approach to trafficking.

The Strategies argue that a rights-based approach must also be a gender-responsive approach that recognises and takes into account the differential impact of gender roles and gender stereotypes on the relatively greater vulnerability of women and girls to trafficking and on the impact of trafficking on their lives. A gender-responsive approach must be rights based, paying particular attention to the distinction between the individual and structural dimensions of human rights for women. The realisation of the structural dimension of women's human rights is the key to both the prevention of trafficking in women and girls, and the integration of survivors of trafficking into their communities of choice.

This recognition points to the need for an integrated and multi-sectoral programme to address trafficking as a development issue at the national level.

Recognition of the global nature of trafficking and its prevention points to the need at the international level for co-ordinated collaboration among countries of origin, countries of transit and countries of destination, as well as the international community as a whole.

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Annex

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Trans-national Organized Crime, G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001).

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against trans-national organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Trans-national Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

Relation with the United Nations Convention against Trans-national Organized Crime

1. This Protocol supplements the United Nations Convention against Trans-national Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote co-operation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation

of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are trans-national in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5

Criminalisation

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
 - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases, and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in co-operation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, co-operation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
 - (a) To prevent and combat trafficking in persons; and
 - (b) To protect victims of trafficking in persons, especially women and children, from revictimization.
2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include co-operation with non-governmental organizations, other relevant organizations and other elements of civil society.
4. States Parties shall take or strengthen measures, including through bilateral or multilateral co-operation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral co-operation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, co-operate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
 - (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
 - (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
 - (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.
2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child and gender-sensitive issues and it should encourage co-operation with non-governmental organisations, other relevant organizations and other elements of civil society.
3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.
6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening co-operation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organisation of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organisations provided that at least one member State of such organisation has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organisation may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organisation shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organisation shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Protocol is open for accession by any State or any regional economic integration organisation of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organisation shall declare the extent of its competence with respect to matters governed by this Protocol. Such organisation shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.
2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.
2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organisations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organisation shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

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