

# COMBATING CHILD TRAFFICKING

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## Foreword

Every day, children are bought, sold and transported away from their homes. The trafficking of human beings is a multibillion dollar business that appears to be growing.

Child trafficking is illegal. It is also extremely harmful, as trafficked children are physically and sexually exploited and abused. Obtaining accurate data on child trafficking is difficult because it is a criminal activity, and because lawmakers and public servants often find it difficult to acknowledge and confront the scale of the problem.

As parliamentarians, you can make a difference in preventing and responding to child trafficking in your country and around the world.

There has been important progress in the global fight to end child trafficking. An international convention has defined the crime of trafficking and created legal measures to end it; comprehensive legislation has been enacted by countries in both the developed and developing world; multilateral agreements have been implemented to foster greater intercountry and international coordination. And children themselves have spoken about the harm caused by trafficking and the need for protection.

But there is much more to be done to make the elimination of child trafficking a reality.

This handbook, a collaborative effort of the Inter-Parliamentary Union and UNICEF, addresses some of the key measures that parliamentarians can take to end child trafficking. It outlines specific steps - including laws, policies and advocacy efforts - which parliamentarians around the world are taking to make children safer from this scourge.

Our children deserve our best efforts. As parliamentarians, you have the power that children lack. You can make a lasting difference in the lives of children caught in the nightmare of trafficking throughout the world.



Anders B. Johnsson  
Secretary General  
Inter-Parliamentary Union



Carol Bellamy  
Executive Director  
United Nations Children's Fund



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# Introduction

*“There can be no better measure of our governance than the way we treat our children, and no greater failing on our part than to allow them to be subjected to violence, abuse or exploitation . . . Parliamentarians have the power to alleviate the suffering of millions of children around the world, if only they would use it.”*

*Jessica Lange, UNICEF Ambassador, at the Inter-Parliamentary Union's 110th Assembly in Mexico City, 20 April 2004.*

Trafficking of children links all countries and regions in a web of international crime. Every year, children are smuggled across borders and sold like commodities. Others are trafficked within their home countries, usually from rural to urban areas. Trafficking violates the human rights guaranteed to children under international law, most notably the United Nations Convention on the Rights of the Child. Children's survival and development are threatened, and their rights to education, health and protection are denied.

Trafficking in human beings, one of the most lucrative and fastest growing transnational crimes, generates approximately up to \$10 billion per year.<sup>1</sup> In response to intensive legal and political efforts to combat drug trafficking, criminal networks involved in the drug trade are increasingly diverting resources to the development of human trafficking networks. Simply put, the 'cost' of buying and selling human beings is not very high, and the risks considerably lower than that of trafficking drugs or arms.<sup>2</sup> All countries, whether trafficking is taking place through, from, into or within their borders, must enact measures to end this harmful practice.

Parliamentarians are in an extraordinary position to create the political and legislative climate for the successful development and implementation of anti-trafficking initiatives. Parliamentarians have the authority to allocate resources for trafficking-prevention measures and can advocate for greater awareness within governments.

Cooperation among countries of origin, of transit and of destination is fundamental if human trafficking is to be eliminated. Nations must hold all perpetrators accountable—whether recruiters, intermediaries or users of exploited children. Internal trafficking must be taken no less seriously than global trafficking. Protection of and assistance to victims are paramount in any anti-trafficking strategy. Anti-trafficking initiatives that focus exclusively on law enforcement can leave victims exposed to further exploitation, and sometimes criminal prosecution themselves. Finally, legal measures to combat trafficking will fail without mechanisms to implement and monitor the laws.



This guide provides parliamentarians with recommendations to:

- Help prevent child trafficking
- Assist child victims of trafficking
- Hold traffickers and people who assist them accountable for their crimes.

It also outlines measures that parliamentarians can take to interrupt the 'supply' and reduce the 'demand' for trafficking of human beings. The recommendations are bolstered by practices from countries that have developed legislation or policies to combat human trafficking. These examples illustrate the varied ways countries attempt to tackle this growing phenomenon. This is not an exhaustive list of good practices, but rather a sampling of measures from around the globe. The inclusion of a country's law or policy does not indicate a broader endorsement of its laws or policies.

The Handbook is divided into three main sections. Section 1 will describe the phenomenon of child trafficking. Section 2 will focus on the protective environment necessary to prevent and combat child trafficking. Section 3 summarises the various actions parliamentarians can take to combat child trafficking.

## **Section 1**

# **Defining the problem**



# Chapter 1

## What is trafficking?

Trafficking was first defined in international law through the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (2000). Known as the 'Palermo Protocol' or the 'Trafficking Protocol', this is the most widely endorsed definition of trafficking and provides an essential basis for national law reform.

### **DEFINITION OF TRAFFICKING FROM THE PALERMO PROTOCOL**

#### **Article 3**

- 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.

The definition clearly states that "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" is not required to constitute child trafficking.

It is critical that national legislation against trafficking not be restricted to transnational trafficking. Many children are trafficked within countries, particularly from rural to urban areas. Too often, States restrict their definitions and responses to transnational cases, leaving millions of internally trafficked victims without protection. This can minimize the actual magnitude of a country's overall trafficking problem. More needs to be done to address trafficking within a country's borders.

Finally, the protocol is to be interpreted in the general framework of the Convention on the Rights of the Child as a whole. The definition is inadequate without including trafficking of children for any purpose or in any form as envisaged by Article 35 of the Convention.<sup>3</sup>

## Chapter 2

# Who is being trafficked and for what purposes?

While women, and sometimes men, are trafficked, this guide focuses on prevention measures and legislative initiatives specific to children.

There are no exact estimates of the numbers of trafficked children at this time.<sup>4</sup> However, one estimate suggests that 50 per cent of trafficking victims worldwide are children.<sup>5</sup> There are many reasons for imprecise data on child trafficking. Trafficking is a criminal act, shrouded in secrecy. Victims are often afraid to come forward, making it difficult to get accurate numbers. In addition, there is no common methodology to count trafficking victims. Consistent criteria to define a trafficked person in accordance with the international legal definition are often not used. Statistics may exclude those trafficked within national borders and often do not disaggregate trafficking victims by age and sex.

Despite the absence of an exact count of trafficked children, the numbers are enormous, and the trend is on the rise. Parliamentarians can be instrumental in reversing this tragedy by taking urgent action.

Children are trafficked into a range of exploitative practices that include:

**Labour exploitation:** Children may be trafficked to work on plantations, in mines or in other hazardous conditions, such as handling chemicals and pesticides or operating dangerous machinery. They are often kept isolated within destination countries and are fearful of reporting the abusive work conditions to authorities.

In certain cases, children are trafficked into bonded labour. The family typically receives an advance payment, often structured so that 'expenses' or 'interest' are deducted from a child's earnings in such amounts that it is nearly impossible to repay the debt or 'buy back' the child.

**Domestic work:** The International Labour Organization (ILO) estimates that the majority of child domestics are girls.<sup>6</sup> Parents and children are often lured by promises of education or a good job. Once trafficked, they may find themselves stripped of their identification papers and lacking any support network. They are dependent on their exploiters for safety, food and shelter, and most endure harsh working conditions.

**Sexual exploitation:** Children, especially girls, are trafficked to work in brothels, massage parlors, prostitution rings or strip clubs, or used to produce pornographic materials. Though it is difficult to determine precisely, ILO global child labour figures for the year 2000 estimate that 1.8 million children are exploited in the commercial sex industry,<sup>7</sup> suffering extreme physical, sexual and psychological violence and abuse by traffickers, pimps and 'customers'.

**Military conscription:** It is estimated that child soldiers have been used in more than 30 ongoing or recent armed conflicts in almost every region of the world.<sup>8</sup> Some children join fighting forces due to poverty or abuse, others are forcibly recruited or abducted. Children's roles in conflicts vary. They are used as messengers, porters, cooks, 'wives' who provide sexual services or as combatants. Children are most vulnerable to recruitment if they are poor, separated from their families, displaced from their homes, living in a combat zone, have limited access to education or are orphaned.<sup>9</sup>

**Marriage:** Girls are trafficked as brides for various reasons. When poverty is acute, a girl may be regarded as an economic burden for her family and her marriage to an older man may be seen as a family survival strategy. Sometimes, the arrangements made by male migrants to find wives from their home regions result in the trafficking of child brides. There is a growing demand by older men for a young virgin bride, particularly in places where the fear and risk of HIV/AIDS infection is high. Sometimes families may encourage their daughters to marry early because they mistakenly believe that it will protect their girls from HIV.<sup>10</sup> Early marriage is common in Central and Western Africa, where 40 per cent and 49 per cent, respectively, of girls under the age of 19 are affected.<sup>11</sup>

**Illicit adoption:** An increase in demand for adoption has helped to propel the unlawful trafficking of babies and young children. Sometimes mothers from developing countries sell their baby or young child, at other times the infant is stolen and mothers are told the baby was stillborn.

**Sport:** Children, particularly young boys, have been trafficked as camel jockeys. The sport is a lucrative industry, and children are especially appealing for this purpose because of their small size. The use of children as jockeys in camel racing is extremely dangerous and can result in serious injury and even death. Boys who lose races are often brutalized by their exploiters, deprived of their salary and food, and mentally and physically abused.

**Begging:** Children may be recruited and trafficked to earn money for others by begging or selling goods on the street. In some cases, child beggars are maimed by their captors to engender sympathy and greater charity.

**Organs:** Organ trafficking is specifically included in the Palermo Protocol. Although this horrific practice is nearly impossible to monitor or detect, it nonetheless is reported. Parliamentarians need to be aware of this clandestine phenomenon.



## Chapter 3

### Impact of trafficking on children

Trafficking abrogates a child's right to a healthy childhood and a productive, rewarding, dignified life. Child trafficking victims are subjugated and physically abused by the perpetrators: traffickers, employers, pimps, madams, and 'customers'. Trafficked children are often beaten and abused, and the violence occurs at all stages of the trafficking cycle.

#### **Emotional impact**

Children who have been trafficked have reported feelings of shame, guilt and low self-esteem and are frequently stigmatized. They often feel betrayed, especially if the perpetrator was someone they had trusted. These factors as well as the experience itself, can cause nightmares, sleeplessness, feelings of hopelessness and depression. Some children who have been trafficked turn to substance abuse to numb their psychic pain, and others have attempted suicide.<sup>12</sup>

#### **Physical impact**

Children trafficked into the sex industry are susceptible to contracting sexually transmitted infections, including HIV/AIDS. The dangerous and mistaken belief in some countries that sex with a virgin can cure HIV/AIDS has led to even higher demand for young girls. Many women and girls report that 'customers' pay more for sex without a condom, and they – especially girls – are rarely in a position to insist upon condom use. Domestic workers, street children, child labourers and children in detention are vulnerable to rape and sexual exploitation, and are at high risk of contracting HIV/AIDS.

#### **Psychosocial impact**

Children who are trafficked typically suffer adverse effects to their social and educational development. Many have no family life and are forced to work at young ages. Without access to school or family support, and cut off from normal social activities, they fail to develop their potential. Also, under constant surveillance and restriction, they have little contact with the outside world and often do not have the possibility to seek help. When they are victims of physical and emotional violence and abuse, the effects may be life-threatening and long term.

Coordinated efforts are needed to stop and prevent child trafficking. Parliamentarians are key players in bridging political, governmental and civil concerns, and in uniting many partners in a common cause. Through specific steps to advance public policy, awareness and response, it is possible to end the scourge of child trafficking, to hold perpetrators of crimes of trafficking of children accountable, and to build a protective environment to keep children safe from harm.

## Chapter 4

### Factors that make children vulnerable

Trafficking victims often come from poor families and lack economic opportunities. Children who have minimal education, lack vocational skills or have few prospects for job opportunities are most at risk. These factors, when compounded by gender, racial or ethnic discrimination, or insecurity caused by armed conflict and civil strife, create the ideal environment for trafficking networks to thrive. Unless these underlying causes are addressed, the more direct measures to stop trafficking will have limited success. Some of the main areas in which members of parliament can take action are described below.

#### **Poverty**

Poverty heightens children's vulnerability to traffickers. One of the most obvious ways material poverty leads to exploitation and abuse is through child labour. Poverty frequently forces vulnerable children to turn to hazardous work. Those who attempt to "sell children into slavery or sexual exploitation do not seek their prey in comfortable suburbs; they look in the poorest shanty towns or the most underprivileged rural areas, where grinding poverty can heighten children's vulnerability to protection abuses."<sup>13</sup> With promises of employment opportunities abroad, families in extreme poverty may send their children away to work.

Not all poor children are trafficked. They are most vulnerable, but vulnerability increases through a confluence of such factors gender and ethnic discrimination. Those who are most at risk are also in close proximity to an environment where trafficking is pervasive.

#### **Inequality of women and girls**

The legal and social inequality of women and girls is a breeding ground for trafficking. Where women and girls are objectified and seen as commodities, a climate is created in which girls can be bought and sold. Far too often girls are denied the opportunity to go to school and instead are forced to stay at home to perform household chores. They remain unskilled and uneducated. Girls are frequently abused within their families, making the lure of traffickers seem like an escape from domestic exploitation and violence. For many, migrating or seeking jobs outside their community is not just an economic decision, it may be a quest to find personal freedom, better living conditions or a means to support their families.

#### **Low school enrolment**

Children who are not in school can easily fall prey to traffickers. The estimated global number of children not attending school is 121 million, the majority of whom are

girls.<sup>14</sup> School enrollment is a critical factor in the fight against trafficking. Uneducated children have few opportunities for their future, and are therefore more vulnerable to traffickers' promises of money and a 'better life'. Additionally, most prevention messages are aimed to children who can read, placing illiterate children at a disadvantage. School can also provide a haven to keep children off the streets.

### **Children without caregivers**

Children who are without caregivers are extremely vulnerable to trafficking and exploitation. Parents provide an essential safety net for their offspring. Children without parental protection, or those placed in institutions, are targets for traffickers. Children who grow up in institutions often lack ties to community as well as opportunities and so may be more at risk. Assessments by the International Labour Organization have found that orphaned children are much more likely than non-orphans to be working in domestic service, commercial sex, commercial agriculture or as street vendors.<sup>15</sup>

Orphans or children separated from their parents due to poverty, armed conflict, violence or migration may live with more distant relatives or a foster family. Without guidance, a sense of belonging or opportunities, they may be at an increased risk of trafficking.

Millions of children in Africa are orphaned by HIV/AIDS, and in Asia and Eastern Europe the threat of HIV/AIDS is on the rise. When caregivers become sick or die, older children may be removed from school to take care of their siblings. Family members who cannot work and who need expensive medications put a financial burden on the family. Children may be forced to supplement the family's income and thus be more vulnerable to traffickers. Combating HIV/AIDS would have the additional effect of reducing child trafficking.

### **Lack of birth registration**

Children who are not registered are more susceptible to trafficking. It is estimated that 41 per cent of the children born in 2000 were not registered at birth.<sup>16</sup> When children are without a legal identity it is easier for traffickers to 'hide' them. It is also more difficult to trace and monitor disappearances. In addition, without a birth certificate, it is difficult to confirm the child's age and hold traffickers accountable. Lack of identification may mean that children who are trafficked between countries cannot be traced to their country of origin and are thus not easily returned to their communities.

### **Humanitarian disasters and armed conflict**

During conflicts, children may be abducted by armed groups and forced to participate in hostilities. They may be sexually abused or raped. Conflicts contribute to porous borders, increasing traffickers' ability to transport people. Finally, the influx of

international workers may increase sexual exploitation and trafficking. There is increasing evidence documenting sexual exploitation by humanitarian workers<sup>17</sup> and the arrival of peacekeeping troops has been correlated with escalating child prostitution.<sup>18</sup>

Such catastrophic disasters as protracted armed conflict and the tsunami that struck South East Asia at the end of 2004 often leave children unaccompanied. Cataclismic events that disrupt livelihoods or result in the death of one or both parents make children vulnerable to trafficking. These crises create chaos and a breakdown of law enforcement, which decreases the likelihood of traffickers facing legal consequences.

### **Demand for exploitative sex and cheap labour**

Trafficking and the skyrocketing demand for exploitative labour and sexual services are inexorably linked. The drive for rising profits too often trumps ethics, resulting in children being exploited in factories and sweatshops.

Underlying attitudes about male entitlement can foster a perverse notion that it is acceptable for men to sexually exploit children and women. These attitudes are reinforced when men are allowed to sexually exploit without facing any repercussions or punishment.

### **Traditions and cultural values**

Trafficking of children intersects the traditional role of extended families as caregivers and an early integration of children into the labour force. The 'traditional placements' of children in families of distant relatives or friends have mutated into a system motivated by economic objectives.



## **Section 2**

# **The Protective Environment: A Framework for Action**



## Chapter 5

### The protective environment: An overview

Building a protective environment for children is essential for reducing child trafficking. A protective environment is a safety net of interconnected elements designed to safeguard children from violence, exploitation and abuse, and is crucial to their survival, health and well-being.

The protective environment begins at home, with the family as the first line of defence. It is nonetheless the task of everyone – governments, teachers, religious leaders, police and children themselves – to help children live in safety. Parliamentary action, while critical, is insufficient by itself to ensure the protection of children. Reinforcement from all sectors of society is required.

Trafficking is just one example of a violation of a child's right to protection. Providing a protective environment will help ensure that children are safe from other forms of abuse, harm and exploitation. By demonstrating a strong commitment to child protection, parliamentarians can be role models for all segments of society, promoting concerted action on behalf of children.

To protect children from trafficking and other offences, the following areas must be addressed<sup>19</sup> (see diagram 1 for further explanation):

#### **Governmental commitment to fulfilling protection rights**

A protective environment requires government's interest in, recognition of and commitment to child protection. Adequate resources must be made available for child protection initiatives, such as programmes to combat child labour. Political leaders need to take the lead in raising protection on the legislative agenda.

#### **Legislation and enforcement**

Adequate legislation, consistent implementation and full accountability are essential elements of a protective environment.

#### **Attitudes, traditions and practices**

In societies where attitudes or traditions foster abuse, such as sex with minors, severe corporal punishment, harmful traditional practices or differences in the status and perceived value of boys and girls, the environment will fail to be protective. In societies where all forms of violence against children are taboo, and where the rights of children are broadly respected by custom and tradition, children are more likely to be protected.



**Opening discussion and raising awareness** At the most basic level, children need to be free to speak about child protection concerns that affect them or others. At the national level, both media attention and civil society engagement with this issue contribute to child protection. Partnerships at all levels are required for an effective, coordinated response.

**Enhancing capacity of communities and families**

Parents, health workers, teachers, police, social workers, and others who care for and work with children need the skills, knowledge, authority and motivation to identify and respond to child protection problems. Broader initiatives such as the provision of education and safe areas for play, enhance the capacity for protective environments.

**Children's participation**

If children are unaware of their right to be free from abuse, or are not warned of dangers such as trafficking, they are more vulnerable to exploitation. Children need to be equipped with the information and knowledge necessary to protect themselves. They also require safe channels for participation and self-expression. When children have few opportunities for participation, they are more likely to become involved in crime or other dangerous or harmful activities.

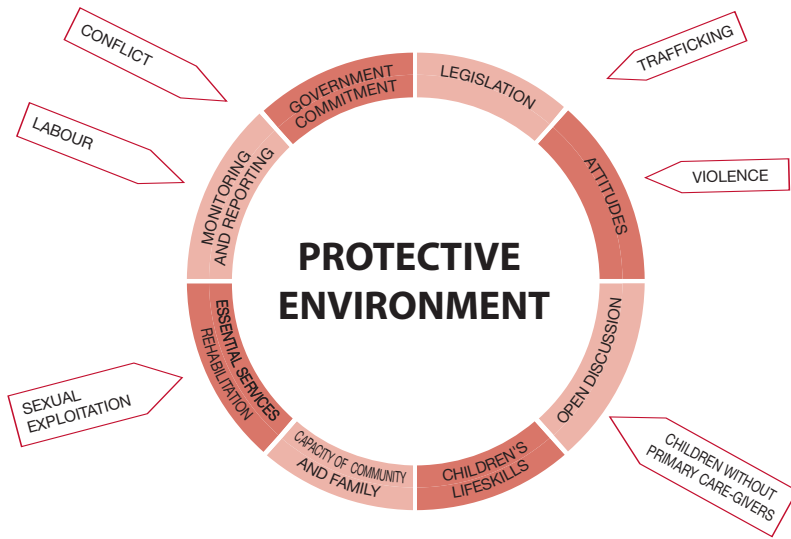
**Monitoring and reporting**

A child protective environment requires a comprehensive monitoring system that records the incidence and nature of abuses and allows for informed, strategic responses. Such systems are more effective when they are participatory and locally based. Governments need to be aware of the situation of its children with regard to violence, abuse and exploitation.

**Services for recovery and reintegration**

Child victims of neglect, exploitation or abuse are entitled to care and non-discriminatory access to basic social services. These services are best provided in an environment that fosters health, self-respect and dignity of the child.

**Diagram 1: The Protective Environment**



A protective environment requires commitment from all members of society. But parliamentarians have a specific responsibility. This handbook uses the protective environment to outline actions that parliamentarians can take to keep children safe from exploitation and trafficking.

Parliamentarians can create a protective environment that prevents and responds to child trafficking through specific actions. They can pass laws, adopt budgets, oversee government action and raise awareness nationally and internationally. Each element of the protective environment, along with concrete recommendations for parliamentarians, is detailed in the following chapters.

## Chapter 6

### Governmental commitment to fulfilling protection rights

A protective environment requires government's interest in, recognition of and commitment to child protection. Adequate resources must be made available for child protection initiatives, such as programmes to combat child labour. Political leaders need to take the lead in raising protection on the legislative agenda.

Government commitment to prevent and respond to child trafficking necessitates a range of interventions. Some are quite broad and will have an impact that goes well beyond the scope of child protection. Others are more narrowly focused to address child protection concerns, including child trafficking. All are critical to the dismantling of child trafficking.

Within this framework, parliamentarians have a key role to play, as legislators, overseers of government action and opinion leaders.

*“The Conference Calls on all States:*

*(b) To take all appropriate national, bilateral and international measures to develop laws, policies, programmes and practices to ensure the effective implementation of international instruments for preventing and combating the trafficking and sale of children for any purpose or in any form.”*

*- 106<sup>th</sup> IPU Conference (Ouagadougou, Burkina Faso, September 2001)*

#### **A. Ratify international law**

As a first step, lawmakers need to advocate for the signature and ratification, without reservation, of all international conventions and related treaties prohibiting the trafficking of children. If a State has ratified with reservation(s) or declaration(s) of understanding that limit the legal instrument's scope, parliamentarians have the power of raising questions and challenging the validity of these reservations.

Among the most important international conventions and related treaties are:

##### **The Convention on the Rights of the Child (1989)**

The most widely ratified human rights instrument, the Convention on the Rights of the Child specifically mandates States to protect children from trafficking. Articles 34 and 35 direct governments to take all measures to protect children from any forms of sexual exploitation and abuse, and to prevent the abduction, sale or trafficking of children for any purpose or in any form.

**The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)**

The United Nations General Assembly adopted this protocol in 2000, and it came into force on 18 January 2002. It applies to the sale of children for purposes of sexual exploitation, child labour or adoption, and covers prevention, prohibition and assistance to victims. Whereas the Convention on the Rights of the Child primarily emphasizes the prevention of sexual exploitation, the Protocol highlights the criminalization of child prostitution and pornography.

**The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) and the Protocol Against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention on Transnational Organized Crime (2000)**

The United Nations General Assembly adopted these protocols on 15 November 2000. They entered into force in December 2003. The 'Palermo Protocol' provides the first definition of trafficking in international law. In addition to calling for comprehensive policies and programmes to prevent trafficking in persons, especially women and children, the Palermo Protocol contains detailed provisions on the obligations of legislatures to enact laws against trafficking, on law enforcement and on the treatment of victims. Measures include criminalization of trafficking, appropriate penalties, protection of victims in receiving countries and information-sharing between countries.

**The International Labour Organization Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)**

This convention calls for the prohibition and immediate elimination of the worst forms of child labour. 'Worst forms of child labour' are defined in Article 3 as: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom; forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography, for pornographic performances or for illicit activities, in particular for the production and trafficking of drugs; and work, which, by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.

**The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993)**

This convention, which came into force in 1995, provides a legal framework to protect children, birth parents and adoptive parents involved in intercountry adoptions. To ensure that adoptions are in the best interests of the child, it requires countries to cooperate in the prevention of child abductions and trafficking, and for adoptions to adhere to basic standards.

Information on the status of these international legal instruments can be found on the websites of the Office of the UN High Commissioner for Human Rights ([www.unhcr.ch](http://www.unhcr.ch)) and the International Labour Organization ([www.ilo.org](http://www.ilo.org)).

To ensure compatibility and implementation, the standards set forth in these international conventions are to be reflected in domestic law. Implementing procedures are to be put in place as needed, and the treaties must be properly enforced.

## **B. Prioritize poverty alleviation**

Poverty alleviation has a much broader social impact than the prevention of trafficking. However, poverty makes children and family particularly vulnerable to the promise of traffickers. National and international poverty alleviation policies are critical as part of a comprehensive anti-trafficking strategy. Providing employment opportunities for parents, for example, may alleviate the pressure on children to drop out of school and go to work. Specific actions parliamentarians can take include:<sup>20</sup>

- Defining and measuring child poverty in terms of how children experience poverty.
- Expanding and ensuring universal access to basic social and educational services.
- Setting targets and mobilizing stakeholders. It is essential that all stakeholders be involved in meeting the development targets that address the dimensions of poverty experienced by children.
- Supporting families to raise their children. Families are the first line of defence for children. The farther away children are from their families, the more vulnerable they are to abuse and exploitation.

*The Education Loan Programme in **Togo** provides loans to women for income-generating activities, reducing the need to send children away to earn income and boosting the chances that children will go to school. Loans were granted to families of children who had been trafficked or families thought to be at risk. Their children now go to school or learn a trade rather than working as domestic servants in Togo or other countries.<sup>21</sup>*

*Oportunidades, a large-scale government programme in **Mexico** has been helping to improve impoverished children's school attendance and health clinic visits. The programme provides cash transfers directly to mothers to enable them to pay for their children's school fees and supplies, buy food and provide adequate nutrition and health-care visits for their entire family.<sup>22</sup>*

### C. Intercountry coordination

Intercountry coordination is essential for States to effectively disrupt the transnational aspects of trafficking.

Parliamentarians can develop and ratify bilateral and multilateral agreements for mutual assistance in criminal matters. These should provide for cooperation in investigating criminal activity, prosecuting offenders, identifying witnesses, preserving evidence, enforcing legal judgments, implementing extradition agreements and seizing assets.

These agreements are essential in ensuring protection for trafficking victims. Government cooperation can facilitate the safe return and reintegration of trafficked children and ensure that all actions are responsive and appropriate. Analysis of existing inter-State cooperation agreements has shown that their success is dependent on the extent to which all States are genuinely committed to taking action to combat trafficking.

Examples of inter-State cooperation agreements are listed in Appendices A and B.

*In 1997, **Fiji** passed the Mutual Assistance in Criminal Matters Act and has entered into agreements on mutual assistance in criminal matters with Australia and New Zealand. Under the act, Fiji pledges to cooperate in the investigation of serious trafficking-related crimes.<sup>23</sup>*

*The Convention on Mutual Assistance in Criminal Matters for the **Economic Community of West African States (ECOWAS)** was adopted in Dakar on 29 July 1992. It promotes bilateral and multilateral measures of direct relevance for the criminal pursuit of traffickers. The Convention on Extradition for ECOWAS States was adopted in Abuja on 6 August 1994. The convention gives national courts of law an effective instrument for the arrest, prosecution and enforcement of penalties against offenders leaving the territory of one State and seeking shelter in the territory of another. During the ECOWAS Summit held in Dakar in December 2001, a Declaration and Plan of Action against Trafficking in Persons was adopted, stipulating specific measures, including: criminalization of trafficking in persons; creation of an ECOWAS Coordination Unit to liaise with national task forces; protection and support of victims; awareness raising; cooperation between border control agencies; and data collection by ECOWAS countries and the United Nations.<sup>24</sup>*

*Agreements are being developed between **Spain** and **Morocco** to respond to the increase in unaccompanied minors clandestinely migrating to Spain from or via Morocco.<sup>25</sup>*

## **D. Build institutional capacity**

To facilitate a sustained and coordinated response to human trafficking, lawmakers are encouraged to develop state infrastructure by initiating the following actions:

### **National Office**

National offices to oversee and to monitor anti-trafficking or prevention initiatives, as well as those aimed at helping trafficking victims recover and reintegrate in society, are crucial. These offices can conduct regular training and sensitization about trafficking for police, media, legal, para-professionals and the judiciary.

### **National Plan of Action**

Creating a 'National Plan of Action' to combat trafficking is an important step towards stopping trafficking networks.<sup>36</sup> A National Plan is valuable for identifying objectives, measuring progress, and lobbying, pressuring and assisting governments to fully implement their commitments.

A National Plan should include various actors across all segments of society, from the community to the international levels. It needs to be a comprehensive, focused framework for national actions against trafficking. The process of developing a National Plan can help create cooperative relationships with other governments, international organizations and non-governmental organizations.

Governments can also implement policies, programmes or plans of action specific to child labour.

*Many countries in **South-Eastern Europe** have developed National Plans of Action against Child Trafficking, a process initiated and promoted by the Stability Pact Task Force against Trafficking in Human Beings.<sup>27</sup>*

*The Government of **Ghana** has a national programme against child labour that focuses on children in prostitution, street children, domestic workers, porters and children working in small-scale mines. Priority is given to girls, children working in very hazardous conditions and children under 12 years old.<sup>28</sup>*

### **Parliamentary mechanisms**

Parliamentary mechanisms may be crucial in securing not only ratification or accession to legal instruments covering child protection issues, but also the development and implementation of corresponding national legislation, policies and programmes.

Specific mechanisms that promote these objectives should be instituted or developed and provided with necessary resources. These include:

- 1) Creation of one or several standing or select parliamentary committees (if there is more than one committee, the activities of these committees should be coordinated to ensure that child trafficking issues are taken into account in all of the parliament's work)
  - a) Where a parliamentary committee on child protection issues already exist, it may be useful to set up within that structure a sub-committee to focus on trafficking
  - b) The child trafficking committee, should represent all political parties, to generate broad support and regular parliamentary debate on the question
- 2) Creation of an informal group on the child protection, and more particularly, a group which closely monitors action on the issue of child trafficking by the government and liaises with civil society

### **E. Allocate funds for anti-trafficking programmes**

Parliamentarians are in extraordinary leadership positions to secure financial commitments for anti-trafficking activities. This includes budgeting for prevention measures, providing funds for capacity-building initiatives and assuring sufficient funding for victim protection and assistance.

Parliaments read, discuss and adopt the national budget and oversee its proper implementation. In discussing the national budget, it is important to ensure that an inclusive approach is adopted and that various partners, including civil society and international organizations can contribute to ensure a comprehensive picture of the issue at stake.

Furthermore, parliaments have a key role to play in overseeing governmental action and ensuring that commitments regarding child trafficking issues match the needs of those children at risk and are reflected and adequately funded in the national budget.

### **F. Implement anti-trafficking measures during humanitarian crises**

Humanitarian crises, such as natural disasters or conflicts, make children particularly vulnerable to trafficking. Parliamentarians need to understand the heightened risks of trafficking during humanitarian emergencies. When disaster strikes, action plans to reduce the likelihood of child trafficking cannot wait, but instead must be implemented immediately.



In response to the tsunami crisis, UNICEF recommended the following five steps to minimize children's vulnerability to trafficking:<sup>29</sup>

- Register all displaced children. Identify those who are unaccompanied, separated from their parents or caregivers or possibly orphaned, and know their exact location.
- Provide immediate safe care. Children identified as unaccompanied or separated must be placed in the temporary care of adults who are accountable for the children's welfare. Their care and protection should be carefully monitored so they are not susceptible to further risk.
- Locate relatives. Trace and reunite family members who have been separated during the chaos.
- Alert police and other authorities. It is essential to educate police, border patrols, teachers, health workers and others to the threat of child exploitation and to enlist their support in protecting children.
- Take special national measures. Temporary restrictions on children's movement may be necessary to thwart trafficking that could occur under the radar.

*Concerned about the prospect of child trafficking from the tsunami zone, the Government of **Indonesia** imposed a moratorium on international adoption for children from Aceh. Children under 16 were not allowed to leave the country without a parent. Surveillance was increased at airports and seaports in North Sumatra and Aceh until all children were properly identified and family tracing was completed.<sup>30</sup>*

During times of conflict, parliamentarians can act by: <sup>31</sup>

- Supporting community-based measures that monitor the situation and needs of children, especially in ensuring their security.
- Eradicating the culture of impunity and strengthening accountability so that perpetrators of genocide, war crimes, (including the conscription of children under 15), and crimes against humanity are brought to justice.
- Enforcing a zero-tolerance policy for sexual abuse and sexual exploitation through the adoption and enforcement of Codes of Conduct for Military, Peacekeepers and Humanitarian Personnel, which prohibit sex with children and the purchasing of sexual services.<sup>32</sup>

## Chapter 7

# Legislation and law enforcement

Adequate legislation, consistent implementation and full accountability are essential elements of a protective environment.

Lawmakers are urged to strengthen or supplement national laws to create legislation capable of protecting children from trafficking and exploitation. This includes strengthening criminal laws related to trafficking, as well as creating more protective laws and policies that directly affect trafficking, such as immigration, labour and child abuse/family violence laws.

Systematic mechanisms for legislative review can help ensure comprehensive and coordinated national legislation. This includes appointing national rapporteurs, holding regular multidisciplinary group meetings to evaluate the adequacy of information and legislation on human trafficking, and expanding the law where necessary. Links among national mechanisms, regional law enforcement and judicial institutions are essential.

***“We will encourage the establishment or strengthening of parliamentary committees, commissions and groups on the problems facing children in our respective countries, with the purpose of undertaking a comprehensive review and assessment of legislation related to children, and formulating recommendations to change and supplement legislation.”***

*- Ashgabat Declaration of the Inter-Parliamentary Workshop “Implementation of the Convention on the Rights of the Child in Central Asia and Kazakhstan,” organized by UNICEF and Turkmenistan under the sponsorship of the IPU*

### A. Strengthen criminal laws

- **Definition of a child**

As defined by the Convention on the Rights of the Child, a child is “every human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier.”<sup>33</sup>

- **Definition of trafficking**

A clear definition of trafficking such as that found in the Palermo Protocol should be included in a State’s criminal code. All codes must prohibit the illegal transport and sale of children in any form and for any purpose. These prohibited purposes include at a minimum, sexual exploitation, forced labour, slavery, slavery-like practices and servitude. If lawmakers choose to draft their own

definition, the scope of the definition should be at least as broad as the definition provided in the Palermo Protocol. Any definition requires explicit understanding that trafficking can occur with or without the consent of the victim.

- **Definition of the crime of trafficking**

Lawmakers need to establish a distinct criminal offence of trafficking in persons that encompasses all forms and potential victims of trafficking. The following should be considered:

- In keeping with the Palermo Protocol, there is no requirement for coercion, force, deception, abuse of power or a position of vulnerability in order for child trafficking to have occurred. Regardless of how a child is exploited the perpetrator must be punished.
- Under no condition should laws criminalize children. Those who have been trafficked or sexually exploited must be treated as victims, not as offenders. The law needs to include specific provisions guaranteeing that children will not face criminal penalty as a result of their being trafficked into illegal industries such as prostitution. Victims are not to be subject to incarceration, detention or other punishment.
- Transport of persons across international borders is not required to be defined as trafficking. Many children are trafficked within countries, especially from rural to urban areas. Tourism-related demands often push trafficking to urban and resort districts. Seasonal migration for agriculture promotes child labour. Sometimes children are farmed out to extended family members or friends and wind up as domestic workers. Both internal and international trafficking of children are pernicious and must be subject to criminal law.

*The Anti-Trafficking in Persons Act of 2003 in the **Philippines** protects trafficking victims, makes consent of the victims irrelevant and states that victims of trafficking shall not be penalized in any way. The law punishes all forms of trafficking with imprisonment of 20 years plus fines. It becomes a life sentence when the victim is a child, becomes emotionally or psychologically impaired, or is infected with HIV/AIDS as a result of the trafficking.<sup>34</sup>*

- **Punishment**

All activities related to trafficking, including instigating, aiding, abetting, attempting, omitting to act against and conspiring to traffic, must be answerable under criminal law.

In addition, all perpetrators involved in trafficking must be prosecuted, including employers, facilitators, procurers, brothel owners, madams, pimps and

'customers'. Public officials such as border officials, police, document producers, school teachers, humanitarian workers, village leaders and transport workers involved or complicit in trafficking are not exempt. They must face both administrative discipline and criminal prosecution.

Organizations involved in trafficking, such as those in the entertainment or tourism industry or agencies that promote illicit adoptions, must be subject to criminal and civil liability and sanctions.

*The first criminal indictment of a **United States**-based sex tour company was issued in February 2004. The owners of the company were indicted for violating New York Penal Law Section 230.25, which prohibits the promotion of prostitution.<sup>35</sup>*

Offenders must be prosecuted under all applicable criminal laws, including those against slavery, slavery-like practices, sexual exploitation, illicit adoption, sex tourism, involuntary servitude, forced or compulsory labor, forced conscription into armed conflict, debt bondage, forced marriage, forced abortion, forced pregnancy, torture, cruel, inhuman or degrading treatment, rape and sexual assault, bodily injury, kidnapping, unlawful imprisonment, labour exploitation, withholding of identity papers and corruption.

Parliamentarians are urged to undertake a review of existing criminal laws to identify provisions that are relevant to trafficking in persons. They need to create sanctions for offences related to trafficking that reflect the seriousness of the crime. Punishment in the form of imprisonment, fines, confiscation of assets, closure of establishments, exclusion from public aid and tax benefits, probation and disqualification from practice of commercial activities should be carried out.

A State's criminal law should include stringent penalties if the victim is under the age of 18, reflecting this in appropriate mandatory minimum sentences. Those who exploit and pay for sex with children must face criminal sanctions regardless of whether they are aware of the child's age.

***Sweden's Act on Prohibiting the purchase of sexual services 1998: 408** establishes a zero-tolerance policy for prostitution and trafficking in human beings and prohibits the purchase of sexual services. It punishes the buyer, not the seller. The people who are being prostituted, according to this law, are not subject to any criminal or legal repercussions. The law states: "The person who for payment has casual sex is convicted of purchase of sexual services and is fined or sentenced to prison for a maximum of six months. According to Chapter 23 of the Swedish penal code, the penalty is imposed for attempt."<sup>36</sup>*

Aggravating circumstances that carry higher penalties should include trafficking that involves public officials or institutions, organized criminal groups, a person who is

in a position of authority over children (such as school officials, persons charged with the task of protecting children or public welfare in general), conspiracy to traffic, and trafficking a spouse, family member or guardian.

*In China, under Article 361 of the Criminal Code, any employee of a hotel, the entertainment industry or a taxi service who arranges for another to engage in prostitution will be penalized.<sup>37</sup>*

*In Belgium, penalties for exploiting the prostitution of a minor under Article 382 of the Code of Criminal Procedures may include banning the offender from operating a drinking establishment, an employment agency, a tobacco shop, a café where performances are held, a ballroom, a massage parlor or a manicure salon. In addition, courts may order establishments where offences are committed to be closed and may prevent offenders from teaching in institutions that admit minors.<sup>38</sup>*

*In Madagascar, procurement for prostitution is prohibited. Under Article 334 bis. of the Penal Code (sub-paragraphs (1)-(5) an enhanced penalty of two to five years will be imposed if the victim is under the age of 18, if force, abuse of authority, or fraud is used, or if the offender is a spouse, parent, guardian or teacher of the victim, or is assigned to fight prostitution, to protect public health or to maintain public order.<sup>39</sup>*

*In the Gambia, the Government has enacted new legislation, Tourism Offences Act 2003, in response to the growing phenomenon of child sex tourism. The act makes sexual exploitation of children an offence and imposes stiff penalties on anyone convicted of the offence. In addition, a multi-agency National Task Force on Sexual Exploitation of Children in Tourism was established in March 2003 under the aegis of the Gambia Tourism Authority. The task force comprises Government departments, UNICEF, non-governmental organizations, tour operators, and hotel and restaurant owners. It is preparing a Tourism Code of Conduct for travel agents, tour operators, and hotel/restaurant and bar owners.<sup>40</sup>*

- **Extraterritorial application of the law**

Enforcing criminal laws against traffickers requires States to extend the reach of these laws to nationals who commit offences outside their territory. To facilitate law enforcement against traffickers, lawmakers need to make trafficking an extraditable offence, ratify bilateral and multilateral extradition treaties that include trafficking as an extraditable offence, and explicitly extend the jurisdiction of their States to nationals who commit trafficking-related offences abroad.

Along these lines, child sex tourism needs to be a criminal offence and lawmakers must see to it that jurisdiction extends to their nationals who engage in sexual exploitation abroad. Moreover, States must prosecute not only those who engage in sexual exploitation abroad, but also persons who assist or organize sex tourism or activities that promote or involve sex with children.

*Canada has amended its Criminal Code (child prostitution, child sex tourism, child pornography, child pornography and the Internet, criminal harassment and female genital mutilation) to include Bills C-27 and C-15A, which create extraterritorial legislation that allows for Canadian prosecution of Canadians who sexually exploit children while abroad.<sup>41</sup>*

Factors that foster child trafficking from the demand side must be equally dealt with to prevent trafficking.

## **B. Improve law enforcement**

Establishing a 'special trafficking unit' made up of such law enforcement agents as police, prosecutors, border patrols, immigration officials and judges is invaluable for coordinating law enforcement operations related to trafficking. Such units should include women law enforcement officials, as well as social workers and children's advocates. Members require proper training to identify trafficking victims, know victims' rights and specific needs, and be familiar with referral procedures to organizations and agencies that can provide appropriate services. It is also essential for States to develop standards and penalties that apply to law enforcement authorities who are implicated in corruption. At a minimum, there needs to be external reviews and investigations of law enforcement officials and institutions suspected of involvement in criminal activity.

Anti-trafficking work is most effective when it is multisectoral and responds to criminal action and victim needs. Child protection is an integral part of all law enforcement activities.

*Forum on Street Children in Ethiopia helped equip Ethiopia's police stations with specialized child-protection units, staffed by officers with training in children's rights and an understanding of young people's difficulties. The commitment of senior police and legal administrators to establish this programme allowed for funding salaries for specialist officers who concentrate solely on children's issues. Also, officers attached to the units joined voluntarily and had shown a commitment to children and to solving their problems.<sup>42</sup>*

## **C. Related laws**

Migration and labour laws can also have a direct effect on child trafficking. It is important to review legislative frameworks to ensure that labour and migration policies are enacted with an eye towards protecting children.

- **Immigration policies**

There are steps related to migration policies that parliamentarians can take to discourage trafficking. For example, parliaments can create a national office to coordinate assistance for individuals and families who are seeking to emigrate. This can provide information including via hotlines, about opportunities and requirements for legal migration and employment, earning potential in countries of destination and risks associated with seeking employment abroad. Information in the languages of the main immigration source countries at ports, airports, stations and immigration check posts is vital.

Unaccompanied child refugees or children seeking asylum who are without identity documents are especially vulnerable to traffickers or may themselves seek to cross international borders illegally. These children are often attempting to reach family members who may already be in the country, or they may be seeking work or refuge.

The recent effort by a number of countries to tighten national security has increased the risk for children at border crossings. Children who do not have proof of age or identity may be taken into detention for unspecified periods of time.

In all such situations, children must be provided with legal advice and protection, as well as assistance in finding their families or, if that is not possible, in finding proper support. The child's best interest should guide action at all times, so that children's safety and well being are not compromised.

*According to Article 55 of The Organic Act 4/2000, persons who have been trafficked to **Spain** for illegal labour or sexual exploitation are exempt from administrative liability for entering Spain illegally and for working without a permit.<sup>43</sup>*

- **Labour laws**

Labour laws are relevant because traffickers often lure their victims with false promises of employment. Strong labour laws have the potential to discourage trafficking for child labour. For example, parliamentarians can prevent trafficking for child labour by strictly enforcing the adult minimum wage, which dissuades traffickers from preying upon children.

*The **Ethiopian** Government adopted the Private Employment Agency Proclamation 104/1998 and created a special Inter-Ministerial National Committee on the issue of Ethiopian women being trafficked to the Gulf States. The proclamation's aim is to regulate all employment service entities and to protect the rights, safety and dignity of Ethiopians employed and sent abroad through severe penalties for abuses of the human rights and physical integrity of workers.<sup>44</sup>*

- **Adoption Laws**

Adoption trafficking can be included in general anti-trafficking legislation. It is important that adoption laws are strengthened to eliminate loopholes that facilitate trafficking in children for purposes of adoption.

*In Paraguay, Article 223 of the Criminal Code explicitly makes it unlawful to exploit the inexperience, need or inability of a child's legal guardian in order to persuade that person to offer the child for false adoption for a price.<sup>45</sup>*

*In Poland, organizing the adoption of children with the intent of making an unlawful profit is categorized as trafficking and is prohibited under Article 253 of the Penal Code.<sup>46</sup>*

*In Colombia, under Article 232 of the Criminal Code, 'irregular adoption' is criminalized. The code states that any person who promotes or carries out the adoption of a minor but fails to comply with applicable legal requirements, does not obtain a license from the Colombian Family Welfare Institution, or uses irregular practices that are detrimental to the minor will be punished by imprisonment of one to five years. The penalty is more severe if the conduct is carried out for profit or if the perpetrator takes advantage of his or her official position.<sup>47</sup>*

- **Laws for protection and assistance**

Laws that provide for protection and assistance for victims are essential to a complete legislative framework on trafficking. Laws that criminalize trafficking are insufficient without clear measures to provide assistance to victims. Chapter 13 outlines legislative provisions for protection and assistance.



## Chapter 8

### Attitudes, traditions and practices

In societies where attitudes or traditions foster abuse, such as sex with minors, severe corporal punishment, harmful traditional practices or differences in the status and perceived value of boys and girls, the environment will fail to be protective. In societies where all forms of violence against children are taboo, and where the rights of children are broadly respected by custom and tradition, children are more likely to be protected.

#### A. Challenging gender discrimination

Inequality between men and women and between boys and girls breeds child trafficking. Discrimination against girls and women is pervasive. The subordination of girls and women in law, policies and practice leaves them vulnerable to abuse. Attitudes and beliefs about the relative worth of girls and women can lead to a climate in which they are bought and sold.

Discrimination is evident: <sup>48</sup>

- **From birth**, and even before, as seen by sex-selective abortion, if girls are less valued and receive less care than boys.
- **Within the family**, if girls learn early the inferior position and stereotyped roles deemed acceptable for girls and women; are given less food and fewer economic resources than boys and men; are denied access to education, employment, recreation and other opportunities; shoulder a disproportionate burden of domestic work and childcare, are denied an equal right to own property; and are denied equal participation in decision-making.
- **In schools**, if girls are exposed to teachers, curricula, textbooks and teaching methods that reinforce gender stereotypes and discriminatory practices, to sexual harassment and insecurity, and to non-existent or inappropriate school facilities.
- **In communities**, if girls and women are subjected to violence and abuse that is tolerated and goes unpunished.
- **Everywhere**, in households, communities, and national and international arenas, if women and girls are left out of the decisions that define the conditions in which they live.

In all of their work, parliamentarians need to promote the status of girls and women and help change harmful attitudes and practices. The Council of the European Union Multidisciplinary Group on Organized Crime has identified a list of preventive measures that are to be considered by lawmakers seeking to end trafficking. Effective anti-trafficking legislation and policies must:<sup>49</sup>

- Protect and strengthen the legal and social equality of women and the human rights of women and children;
- Support programmes that encourage “the full participation and empowerment of women in their societies, in particular, in educational facilities and economic life;”
- Alleviate poverty and the marginalization of vulnerable groups, particularly women and girls, through “improv[ed] governance, material support, social protection and employment opportunities and sustainable economic development;”
- Expand opportunities for “legal, gainful and non-exploitative labor migration.”

## **B. Changing attitudes about child labour and sexual exploitation**

Where tradition or attitudes encourage exploitation, for example, the beliefs that it is better for a child to work in the home than attend school or that it is acceptable for men to purchase sex with children, abuse will flourish. Reducing the demand side of exploitation requires both legal intervention and a change in the attitudes that allow these practices to go unchecked. Parliamentarians can play a key role in challenging these attitudes by using their platform as leaders to speak out against discriminatory and harmful practices. Parliamentarians can also ensure that school curricula negate these harmful attitudes.

*One intervention of STOP IT NOW!, the United Kingdom’s and Ireland’s initiatives for stopping child sexual abuse, is implementing campaigns to change people’s attitudes so they will think differently about child sexual abuse, talk about it more and listen to concerns from other adults or children.<sup>50</sup>*

*In Bolivia, a project through the International Programme of Elimination of Child Labour (IPEC) focusing on the cashew nut sector includes the elimination of child labour and discrimination against women as cross-cutting themes. The project aims to strengthen the bargaining power of the workers involved in this sector with a view to improving their conditions of work.<sup>51</sup>*

*In the Philippines, an educational project targets young boys and men in communities known for prostitution. The project challenges men in recognizing their role as buyers of girls and women in prostitution and educates men and boys about prostitution and trafficking.<sup>52</sup>*

## Chapter 9

### Opening discussion and raising awareness

At the most basic level, children need to be free to speak about child protection concerns that affect them or others. At the national level, both media attention and civil society engagement with this issue contribute to child protection. Partnerships at all levels are required for an effective, coordinated response.

#### A. Mobilizing civil society

Promoting an open dialogue on child trafficking and child protection issues is key to identifying and implementing efficient and effective policies and programmes. Child trafficking is a complex issue, with many stakeholders and key players. It is important that all relevant sectors of society be identified and be contributing members in efforts to combat child trafficking.

Seeking partnerships within civil society, including the private sector, will strengthen domestic anti-trafficking programmes. Community-based organizations often are best suited to raise awareness and support victims, and should be supported to engage in this work. To this end, parliamentarians can provide technical and financial assistance to civil society actors who are implementing anti-trafficking programmes.

Lawmakers are encouraged to support programmes that raise awareness within the private sector, including within the tourism industry and industries that use child labour. The tourism industry can play a key role in the prevention of child trafficking by educating staff and tourists about local laws that govern trafficking and sexual exploitation and how to report suspected violations.

*The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (the Code) is a project joining the tourism sector with the children's rights non-governmental organization End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes, World Tourism Organization, and UNICEF. Its goal is to prevent sexual exploitation of children at tourism destinations.*

*Tour operators and their umbrella organizations, travel agents, hotels, airlines, etc., that endorse the Code pledge to implement the following measures:*

- 1. Establish a corporate ethical policy against commercial sexual exploitation of children*
- 2. Train personnel in the country of origin and travel destinations*

3. *Introduce clauses in contracts with suppliers, stating a common repudiation of sexual exploitation of children*
4. *Provide information to travellers through catalogues, brochures, in-flight films, ticket receipts, websites, etc.*
5. *Provide information to local 'key persons' at destinations*
6. *Report annually.*<sup>53</sup>

*Australia funded the Child Wise Tourism programme, which collaborates with members of the tourism industry, government agencies and local community-based organizations, to educate and raise awareness about child sex tourism. The programme encourages the tourism industry, including hotels, tour guides, travel agencies and airlines, to learn about the practice and become proactive in promoting child protection.*<sup>54</sup>

*France's Ministry of Education and travel industry representatives developed guidelines on child sex tourism for tourism school curricula. Also, State-owned Air France allocates a portion of in-flight toy sales to fund child sex tourism awareness programmes. Air France also produces in-flight videos raising awareness around the issue of child sex tourism. These videos are shown on flights to tourism destinations.*<sup>55</sup>

*In Gabon, an innovative project distributed windshield stickers for local taxis to raise awareness about child trafficking and exploitation amongst taxi drivers and their customers.*<sup>56</sup>

## **B. Open dialogue within and outside parliament**

Parliamentarians can prompt action for lawmaking by disseminating information, holding meetings specifically related to trafficking, making speeches about the practice and conferring with local law enforcement agencies on actions to prevent and punish trafficking.

As representatives of the people, parliamentarians exert considerable influence on societal opinion. By publicly advocating against trafficking, violence, abuse and exploitation, parliamentarians can be in the vanguard for of the fight against these practices and mobilize others to action.

### C. Media collaboration

The media are important outlets to inform and raise awareness about the exploitation and abuse of children by child traffickers. They can reach both rural and urban populations and influence opinions. However, collaboration with the media must be carried out without sensationalizing the issue and further stigmatizing children who have been trafficked. Protective measures must be followed to ensure that children's identities are kept confidential.

*UNICEF in **Afghanistan** is developing and disseminating awareness-raising materials such as radio spots, posters and leaflets on girl's education. It also supports media personnel in ensuring media ethics and practices that are consistent with the rights of the child and in acting as partners for children's and young persons' protection.*<sup>57</sup>

*In June 2002 in **Senegal**, training workshops for journalists on the issue of sexual exploitation were held. The training emphasized that media should and can have a lasting impact on public opinion if coverage of issues is reflective and sustained rather than just sporadic.*<sup>58</sup>

## Chapter 10

# Enhancing capacity of communities and families

Parents, health workers, teachers, police, social workers and others who care for and work with children need the skills, knowledge, authority and motivation to identify and respond to child protection problems. Broader initiatives such as the provision of education and safe areas for play enhance capacity for protective environment.

### A. Supporting local initiatives and developing local partnerships

Parliamentarians can be involved in actions at the community level, including partnering with non-governmental organizations and community-based groups in a way that increases the groups' visibility and helps them carry out their work. These organizations play a vital role within a more comprehensive national strategy and should receive support for their important work.

*The Government of **Poland** relies on and cooperates with non-governmental organizations to conduct informational and educational campaigns for potential victims. A non-governmental organization that was partially funded by the Government created computer simulation games and quizzes on CD-ROMs warning against the dangers of trafficking, which were distributed in the nation's public high schools.<sup>59</sup>*

***Benin**'s first Village Committees were created in the south of the country, the area most affected by child trafficking. There are now more than 900 committees. The committees provide social surveillance of the movement of children in their villages by reporting suspected cases of sexual or other child abuse, fraudulent departures of children and children exposed to trafficking. Additionally, the committees monitor the reintegration of trafficked children once they return to the village. When a child leaves the village, the committee rapidly investigates the missing child and alerts the nearest gendarmerie unit or the Juvenile Protection Squad. In many cases, this rapid response has thwarted the transportation of many children to neighboring countries. Village Committees have the advantage of on-the-spot supervision, which encourages spontaneous monitoring of local children, an early warning system and a division of tasks, so that everyone involved is assigned a clear-cut role in the process. The committees also provide efficient birth and death registers in the villages, which keep population information up to date, allowing for a better understanding of the current situation and movement of children, and compensating for ineffective official registry of births, marriages and deaths.<sup>60</sup>*

*In 2004, UNICEF Nepal supported 203 paralegal committees with more than 3,000 members, the majority women. The presence of paralegal committees in communities facilitated the reporting of violence against women and children. Training manuals for paralegal committees were designed to equip them with legal knowledge, advocacy/negotiation skills and such practical information as how to fill in 'First Incident Reports' or 'Birth Registration'.<sup>61</sup>*

## **B. Supporting prevention through schools**

Schools can be valuable venues for raising awareness and warning children of the risks of trafficking. Life skills and anti-trafficking messages need to be incorporated into school curricula so children will be informed and empowered to protect themselves as much as possible. Schools can provide some protection from child labour by offering practical skills that give children viable employment opportunities. Teachers must be able to explain the importance of staying in school and alert children to the possible risks of employment abroad. After-school programmes can also be efficacious for child protection.

To this end, lawmakers are encouraged to focus on improving and expanding access to education by:<sup>62</sup>

- Making education free at least up to the minimum age of employment;
- Collaborating with international governmental organizations and non-governmental organizations to monitor school enrolment and drop-out rates of children, especially girls;
- Providing assistance with supplies and uniforms as necessary to facilitate children's access to schools, including school feeding programmes if children are dropping out because of a lack of food;
- Supporting flexible school times and schedules to accommodate children who are caring for an ailing parent;
- Linking schools to social support services, such as special family food packages that are tied to attendance, or credit and loans for school fees;
- Developing a national curriculum that includes life skills training, as well as awareness and education for both students and teachers on such issues as gender-based violence and trafficking;
- Establishing prevention and response mechanisms to sexual exploitation and abuse in educational settings, including the provision of post-rape counselling, medical assistance and post-exposure kits;
- Keeping schools safe, including from recruitment by armed groups and from sexual exploitation.

*Non-governmental organizations in the **Czech Republic** are partially funded by the Ministry of Justice to continue their successful primary and secondary school efforts to educate Czech youths about the risks of working abroad and the ways that traffickers entrap women.<sup>63</sup>*

*The Government of **Kenya** has initiated a free primary education programme, which has enabled many children who were out of school to enrol. This resulted in more than 1.5 million additional children going to school in 2003 and remaining there in 2004.<sup>64</sup>*

*Casa de la Esperanza is an NGO working with street children in **Panama**. It has a program for children and parents. The program provides an array of services including education and technical training to adults and adolescents to enhance their capacity to earn incomes.<sup>65</sup>*

*A project in **Pakistan** has successfully removed children from hazardous work through rehabilitation and skills training for adolescents. It has also worked on child labour prevention through mobilizing and educating teachers and developing curricula in primary schools.<sup>66</sup>*

### **C. Capacity building to ensure support for children without caregivers**

The millions of children who have lost parents or caregivers need attention and protection as do the families and institutions caring for them. It is vital that the structures in place have the capacity to care for these children.

These are some of the ways parliamentarians can provide support to the growing number of these vulnerable children.<sup>67</sup>

- Ensure that children who have lost parents have access to family-based care, with institutional care as a last resort
- Restructure the system of public care in order to diminish the use of institutions, develop alternative care approaches and strengthen effective community-based preventive and protective social services;
- Strengthen the legislative framework, in line with the CRC, to ensure that the rights of all children deprived of family care, including those in prison, are fulfilled;
- Fight discrimination that brings children into public care – including gender, disability, ethnicity and HIV status of children or their family members;
- Adopt standards for public care and develop good monitoring procedures;
- Reallocate funds to prioritise preventive and alternative care services.



In the case of children and families affected by HIV/AIDS, specific actions can be taken<sup>68</sup>:

- Prolong the lives of parents by providing economic, psychosocial and increasing access to antiretroviral therapy
- Mobilize and support community-based responses to provide both immediate and long-term support to vulnerable households
- Raise awareness at all levels to create a supportive environment for all children affected by HIV/AIDS.

#### **D. Prevention through birth registration**

Ensuring that all children secure their basic right to be registered at birth helps safeguard them against trafficking.

Parliamentarians can facilitate birth registration of all newborns by:<sup>69</sup>

- Removing or modifying legal or administrative requirements that obstruct birth registration, such as stipulations that parents present valid identity documents when this is unrealistic, or that both parents sign the registration document
- Eliminating all costs or fees for birth registration
- Encouraging the use of mobile birth registration teams or units in rural areas
- Facilitating registration for older children who were not registered at birth.

*The Government of **Angola** made birth registration free and introduced a special law that decentralizes and simplifies registration. The Government has given some churches the legal authority to register children, while others have participated in social mobilization, awareness raising and the formation of mobile registration teams.<sup>70</sup>*

*In South **Africa**, the implementation of a pilot project for online birth registration resulted in an average of 650 online birth registrations out of about 1000 births per month.<sup>71</sup>*

***India's** national campaign for birth registration, launched by its president, resulted in the issuance of an estimated 25 million birth certificates in 2004. This initiative was part of a 'catch-up' campaign to reach children who had previously been missed.<sup>72</sup>*

# Chapter 11

## Children's participation

If children are unaware of their right to be free from abuse, or are not warned of dangers such as trafficking, they are more vulnerable to exploitation. Children need to be equipped with the information and knowledge necessary to protect themselves. They also require safe channels for participation and self-expression. When children have few opportunities for participation, they are more likely to become involved in crime or other dangerous or harmful activities.

In countries around the world, children are virtually invisible when it comes to creating public policy on issues that affect their lives. As Nicole Fontaine, the former president of the European Parliament has concluded, "The relative invisibility of children's own unique experience and understanding from all the key legislative and policy-making forums has served to produce policies that discriminate against children."<sup>73</sup>

Participation can be described as "the process of sharing decisions that affect one's life and the life of the community in which one lives."<sup>74</sup> Policies developed around children need to be informed by young people's own experiences and viewpoints. By listening to children, parliamentarians can learn a great deal about how they view trafficking and what vulnerabilities they perceive.

***"If you think children can't make a difference, you are very wrong. Who else can describe all the world's harm if not children? Children should be heard, and their ideas and opinions should be listened to. Maybe then the leaders of the world would think about all the harm that they are doing to the world and maybe just try to help all the children in the world."***

- 16-year-old girl quoted in *Voices of Youth Website*, Slovenia, 24 March 2002

Allowing children to express their opinions does not mean simply endorsing their views. It is about engaging them in dialogue and exchange that allows them to learn constructive ways of influencing the world around them. The social give and take of participation encourages children to assume increasing responsibilities as active, tolerant and growing democratic citizens.

Children can actively participate in the development of legislation through testifying before parliamentary committees and by sharing their views and experiences on issues that are meaningful to them. Participation by children must be age appropriate and respect the dignity of the child.

*In **South Asia**, a network of children and young people working to end commercial sexual exploitation through the Children's and Young Peoples' Consultation against Commercial Sexual Exploitation, which was held in 2003. The consultation brought together young people to share experiences and to collaborate on actions that would further their goal of ending commercial sexual exploitation.<sup>75</sup>*

*Children's parliaments are flourishing. In **Thailand**, for example, more than 200 youth representatives, including children with disabilities, came from schools in all 76 provinces to participate in the 2002 National Youth Parliament. Over the course of three days, several issues were identified, shared and passionately debated through democratic and participatory processes. When their report was presented to the cabinet meeting on 22 January, youth participation was adopted as a government policy.<sup>76</sup>*

*Youth parliamentarians in **Jordan** attended 18 separate conferences at the governorate level on issues affecting their lives. Some 350 of these youth parliamentarians are selected to attend a national conference that develops a work plan for the children's parliament.<sup>77</sup>*

## Chapter 12

# Monitoring and reporting

A child protective environment requires a comprehensive monitoring system that records the incidence and nature of abuses and allows for informed, strategic responses. Such systems are more effective when they are participatory and locally based. Governments need to be aware of the situation of its children with regard to violence, abuse and exploitation.

### A. Data collection

Developing a database and easy-to-use methodology for regular data collection on trafficking, disaggregated by age and sex, is part of an effective strategy to staunch child trafficking. As described in Section 2, collecting accurate data on child trafficking is difficult but necessary to begin to monitor the scale and scope of the problem.

The ILO-International Programme for the Elimination of Child Labour (IPEC) and UNICEF have adopted 'rapid assessment' methodology that uses testimony from individual children and mini surveys to make observations about child trafficking. In conducting these interviews, there are specific child-friendly measures and procedures that are essential.

### B. Monitoring and reporting mechanisms

Keeping track of challenges and progress made remain crucial. Close monitoring of the situation is necessary in order to ensure that policies carried out respond to real issues and needs. It is important that States review on a regular basis developments in the field. Parliaments can carry out enquiries and hold public hearings to assess the situation. In so doing, an inclusive approach should be adopted and participation of children is recommended.

*In South Africa, Parliament held public hearings on child protection issues. Children testified before Parliament about child sexual abuse. A South African parliamentarian, Pregs Govender, said in response, “[As] South Africa transforms, you held out your hope that your lives will change. You hold the torch to the future in your hearts. Trust always in your truth. One day you will stand here in this Parliament, one day you will be President, one day you will live in the society of your dreams. Today you give us the gift of your hope and determination.”<sup>78</sup>*

On an international level, State parties to the Convention on the Rights of the Child have an obligation to present reports on the status of implementation of the Convention. As the overseer of the government's work, parliament has an important role to play in ensuring that the State fully complies with its reporting obligation as a party to the Convention. It is important that the report is submitted on time and presents complete information.

Once a State has become party to the Convention, Parliament must check that an initial report and subsequent periodic reports are submitted in accordance with the periodicity established in the Convention. It is important that Parliament (through its relevant committees) is involved in the preparation of the report, provides input in terms of information or is in any case informed about its contents.

Parliamentarians should also ensure that proper follow-up to the report and the Committee's recommendation is carried out and that the concluding observations of the Committee are presented to Parliament and debated by it. One way is to organize or participate in public debates on the implementation of the concluding observations in order to raise awareness on the steps that need to be taken to accelerate full implementation of the Convention.

# Services for recovery and reintegration

Child victims of neglect, exploitation or abuse are entitled to care and non-discriminatory access to basic social services. These services are best provided in an environment that fosters health, self-respect and dignity of the child.

All too often, the importance of assisting the victims of trafficking is overlooked. Parliamentarians are encouraged to make assistance to survivors a priority. Services should help children recover fully, protect them from further victimization and re-trafficking, and support their social reintegration. The following recommendations are not exhaustive, but highlight major measures that are necessary to aid child trafficking victims.

### A. Process for assisting child victims of trafficking

- **Proactive and preemptive identification**

Proper procedures for rapidly identifying trafficked children need to be established. This requires coordination among law enforcement, border and immigration authorities, health, education and social welfare agencies, and non-governmental organizations, all of which should be on the lookout for trafficked children. Parliamentarians can help establish procedures for a rapid referral and coordination mechanism so children expeditiously receive the care they need.

Help lines for children to call if they become victims of abuse or exploitation are effective tools. The phone number should be given to all children arriving in a destination country under a special visa.

*In India, Child Helplines exists in more than 50 cities, allowing children to access assistance if they are facing abuse. This service is free to users and has responded to more than 3 million calls since its inception in 1996.<sup>80</sup>*

- **Age Identification**

Trafficking victims may have false or no documents when they are discovered, which complicates an assessment of their age. When there is reason to believe that the victim is a child, the presumption should be that the victim is a child even if age cannot be verified. In such cases, the victim needs to be accorded all special protection measures appropriate for child victims of trafficking,

- **Rescue**

From time to time, 'rescue operations' are carried out to remove children from places where they are being exploited, particularly in brothels. Depending on the

circumstances that brought them there, rescued children often return to the sex industry because they see no alternative. For some children, considerable time and support are needed to adapt to life outside the brothel. Attempts to rescue children should be part of a holistic approach that also ensures safe reintegration into a family and community. Additionally, rescue operations need to be sensitive to children's needs. For instance, it is extremely problematic to use an all-male police operation to aid a girl or to interview a child in front of a madam or pimp.

- **Appointment of a guardian**

As soon as the child victim is identified, a legal guardian should be appointed to accompany the child throughout the process. The guardian should oversee the child's welfare (housing, health care, education and psychosocial and language support) and cooperate with service providers on behalf of the child. The legal guardian needs to have a good understanding of child rights, the specific needs of child victims and the legal issues surrounding child trafficking.

## **B. Services to child Trafficking Victims**

- **Social services**

Child trafficking victims need social services. Lawmakers are encouraged to help ensure that such services are available and accessible, bearing in mind the need for trafficked children to receive interim care and protection that include separate, safe housing, medical care, job training, education, psychosocial rehabilitation, and reintegration and repatriation assistance.

*In **Moldova**, the International Organization for Migration and UNICEF support a child-friendly wing of the Rehabilitation Center for Victims of Trafficking. This wing provides child victims of trafficking with such specialized services as medical, psychological, social and legal support.<sup>81</sup>*

*In February 2003, the **United States** Office for Victims of Crime awarded grants to help trafficking victims. Eight grants supported comprehensive services to trafficking victims in a specific state or region. Three were dedicated for specialized services to trafficking victims in larger multi-state areas. These services included emergency medical attention, food and shelter, vocational and English language training, mental health counselling and legal support.<sup>82</sup>*

- **Special needs**

In identifying appropriate services, attention to a child's cultural identity/origin, gender, age and such specific needs as disabilities, psychosocial distress, illness or pregnancy is essential. Special assistance is necessary for children who have been sexually exploited.

*Under the Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000 in **Cyprus**, victims of trafficking are entitled to receive temporary shelter, medical care, psychiatric support and arrangements for their maintenance.<sup>83</sup>*

*In **Italy**, the Immigration Law of 1998 provides for social integration programmes that offer victims of trafficking such services as professional training and language courses.<sup>84</sup>*

*The Foyer Maurice Sixto Centre in **Haiti** offers some of the island's 'restaveks' (live-in child domestic servants, trafficked from poor rural areas into urban centres) a daily two-hour programme of psychological counselling and basic education.<sup>85</sup>*

### **C. Integration or repatriation**

- **Best interests of the child**

The best interest of the child is paramount when determining whether the child will be allowed to remain in the host country or be repatriated to the country of origin. Until this determination is made, prosecutors, public social service organizations and non-governmental organizations should be authorized to apply for humanitarian visas on behalf of children.

- **Long-term solutions for trafficked children**

Child victims should not be returned to their country of origin unless it is in their best interest. Prior to the return, a suitable caregiver, who has agreed to and is capable of taking responsibility and appropriate care of the child, must be located. The caregiver could be a parent, relative, or other adult, or a government or childcare agency in the country of origin.

When repatriation is deemed appropriate, children require travel arrangements and identity documents and must be accompanied by a temporary guardian. Trafficked children should be able to count on long-term care and protection upon their return. This includes security, food, accommodation in a safe and child-appropriate place, access to health care, psychosocial support, legal assistance, social services and education with the goal of social reintegration.

Social service authorities, in cooperation with appropriate ministries where necessary, are to take required steps to identify and locate family members, and to help reunite the child and family when this is in the best interest of the child.

The appropriate judicial authorities and concerned ministries need to be responsible for establishing whether the repatriation of the child is safe and appropriate, and for ensuring that the process takes place in a dignified manner. Members of parliament



must be confident that the child will not be abused, detained or subjected to punitive measures.

Agreements and procedures for collaboration, developed by ministries or other relevant State authorities, must ensure that a thorough inquiry into the individual and family circumstances of the child victim is conducted. This should determine the best course of action for the child.

It is crucial for parliamentarians to support organizations and agencies that provide reintegration assistance, in countries of both destination and origin. An example of such support is the creation of 'intervention centres' designed to coordinate services to child victims and make appropriate referrals.

Parliamentarians from countries of both origin and destination can allocate funds for the repatriation process.

If it is determined to be in the best interest of the child to remain in the host country, parliamentarians can ensure that child victims receive long-term care and protection, including access to health care, psychosocial support, social services and education. Long-term care arrangements for the child in a family environment are preferable.

*In India, UNICEF has worked with partners to develop a website that lists children reported as missing or found. It tracks the found children until they are repatriated.<sup>86</sup>*

*In the Netherlands, a residence permit may be issued to a victim of trafficking upon the conclusion of criminal proceedings. Such a permit is granted on humanitarian grounds, taking into account, for example, the risk of reprisals against the victim and her family, the risk of persecution in the country of origin for committing an offense related to prostitution, and the probability of social reintegration in the country of origin.<sup>87</sup>*

#### **D. Legal procedures for child victims of trafficking**

Parliamentarians should enact legislation that allows child trafficking victims access to justice and civil or criminal proceedings. As always, the best interest of the child is paramount. Therefore, in accordance with the Office of the High Commissioner for Human Rights' *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, the provision of assistance "should not be made contingent on the willingness of the victims to give evidence in criminal proceedings."<sup>88</sup> Criminal procedures of any sort should not delay family reunification, or the return of the child to the country of origin, when this is deemed appropriate for the child.

- **Special allowances**

Laws are to be sensitive to children's rights to 'recovery time' or a 'reflection delay' in which they are given residence permits before deciding whether to pursue legal action against their trafficker. During this time, arrangements should be made so that trafficked children who decide to seek civil remedies can legally remain in the country.

In order to safeguard the rights of children who cannot bring claims on their own, third parties must be able to seek claims for civil remedies.

*Germany has a wide range of protections for victims including a four-week 'reflection' period during which children can decide whether to testify against their traffickers.<sup>89</sup>*

*The Ministry of the Interior, in conjunction with the Ministry of Social Affairs, in Austria has established an intervention centre to assist trafficking victims in obtaining residence permits.<sup>90</sup>*

- **Safeguards during criminal proceedings**

When children are involved in criminal proceedings against traffickers, safeguards are to be implemented to protect them from further victimization. Parliamentarians are encouraged to establish measures and protocols to ensure that child trafficking victims are treated with respect, dignity and sensitivity to their special needs. This includes appointing appropriate legal representation for the child and minimizing direct contact between the child and the offender. One way to do this is to allow alternatives to court testimony as sources of evidence, such as giving witness statements via special audio or video facilities, or on camera.

*Thailand's Criminal Procedure Amendment Act (1999) allows children to give videotaped evidence in private surroundings in order to prevent the child from repeated victimization.<sup>91</sup>*

*In Israel, child victims of sexual exploitation may give testimony by being questioned outside court by a special youth examiner.<sup>92</sup>*

*In Japan, the Law for the Inquest of Prosecution (12 May 2000) provides for measures that protect children who are victimized by crime. The child is accompanied during examinations, is concealed from the defendant and other observers, and may be examined through a video link.<sup>93</sup>*

- **Providing for civil remedies**

Parliamentarians should ensure that laws provide adequate remedies so that child victims receive compensation for their emotional and physical injuries. This should not be contingent on cooperation with law enforcement, nor should it depend on the victim's immigration status. Moreover, laws should ensure that civil claims can be brought against anyone who has exploited the person, including public officials.

A comprehensive damages scheme would allow courts to take into account the special circumstances of the victim, and would provide for general, punitive and special damages (i.e. expenses incurred due to the exploitation, such as the cost of repatriation).

- **Confiscation of proceeds**

In addition to providing for civil remedies for trafficking victims, lawmakers are encouraged to create legislation that would allow the State to confiscate or garnish all proceeds derived from the crime of trafficking. Confiscated proceeds can be applied towards satisfying any civil remedies sought and be used to pay for social services for trafficking victims. In the case of proceeds derived from child trafficking, the State should create a mechanism to hold the proceeds in trust for the trafficked child.

*Nigeria's Prohibition of Trafficking and Allied Matters Bill gives trafficking victims the right to seek compensation, restitution and recovery for economic, physical and psychological damages, regardless of the person's immigration status. The right exists against anyone who has exploited or abused the complainant, including public officials.<sup>94</sup>*

*The Philippines' Anti-Trafficking of Persons Act of 2003 sets up a trust fund for confiscated assets. The act also establishes an Inter-Agency Council against Trafficking.<sup>95</sup>*

*In Cyprus, under Article 8 of the Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000, victims of exploitation have a right to claim special and general damages from their perpetrators. In assessing general damages, courts can take into account the extent of exploitation, the benefit the offender derived from exploitation, future prospects for the victim and the extent to which the victim's prospects have been adversely affected by the offence. Courts can also award punitive damages where appropriate. Factors taken into account include the extent of exploitation and the relationship between the perpetrator and the victim.<sup>96</sup>*

- **Victim/witness security and protection**

Prior to deciding whether to testify in criminal proceedings, child victims have the right to be fully informed about security issues and criminal procedures.

Measures should be established to ensure the safety of children and their families in the countries of destination, transit and origin. Parliamentarians should encourage their governments to enter into bilateral and multilateral agreements that contain provisions to protect witnesses who travel across State boundaries to give evidence. Child trafficking victims, regardless of immigration status, must be allowed to seek protective orders against their traffickers.

In addition, it is essential that child trafficking victims are protected against public exposure. Accordingly, criminal and civil proceedings must be conducted in private, and courts need to ensure that certain information pertaining to the witnesses' identity be kept confidential.

*According to Section 10, Chapter 17 of the Penal Code in Sweden, violence or threats of violence against witnesses are considered interference in a judicial matter, and are criminal offences, punishable by a fine or imprisonment for up to two years.<sup>97</sup>*

*Estonia, Latvia and Lithuania signed an agreement in May 2000 that establishes a legal framework for transporting witnesses in criminal cases to another country and for ensuring their protection.<sup>98</sup>*

- **Training and recruitment**

Parliamentarians can work to guarantee proper training and recruitment practices for people dealing with child trafficking issues. All personnel should be made aware of rights-based and supportive counselling techniques for child victims. They should also be gender sensitive and possess the necessary skills to assist children. For example, interviews and initial action with children should be carried out with the utmost attention to the special sensitivities of the child. The World Health Organization has developed the *Ethical and Safety Recommendations for Interviewing Trafficked Women 2003*, which can also be useful when interviewing children.



## **Section 3**

# **Summary of key recommendations and examples of provisions**



# Chapter 14

## Key recommendations

These are some of the key recommendations from the handbook. For more detailed information, please refer to the appropriate section of the handbook.

Parliamentarians are urged to:

**Ratify international instruments related to child trafficking, without reservation. Where reservations exist review them with a view to their ultimate removal. Some relevant international instruments include:**

- The Convention on the Rights of the Child
- The Optional Protocol to the Convention on the Rights of the Child on the Sale of children, Child Prostitution and Child Pornography
- The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime
- The ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of child Labour
- The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

**Meet international reporting commitments under the Convention on the Rights of the Child by ensuring that:**

- An initial report and subsequent periodic reports are submitted in accordance with the Convention
- Parliament is involved in the preparation of the report by providing information or by remaining informed about its contents
- Parliamentary action is properly included and reflected in the report
- The concluding observations of the Committee are presented to and debated by parliament.

**Demonstrate commitment to fulfilling protection rights by:**

- Prioritizing the alleviation of poverty, with a particular emphasis on fighting poverty from a child's perspective
- Prioritizing education for all, with emphasis on improving access for girls
- Creating intercountry collaboration through Memoranda of Understanding and regional agreements on child trafficking prevention and victim protection
- Building institutional capacity to facilitate a strong, coordinated response to protection rights violations through such measures as creating a national office, a parliamentary committee on child trafficking and a national plan of action to combat child trafficking and monitoring the progress of such plans.



- Allocating sufficient funds for anti - trafficking programs and investing in social programs that reduce children's' vulnerability.

**Strengthen and improve national legislation and law enforcement to end child trafficking in accordance with international legal standards by:**

- Clearly defining the crime and punishment for all actors involved in trafficking and seriously enforcing relevant laws
- Providing for extra-territorial application of the law
- Strengthening all related laws and policies (immigration, labour, adoption) with an eye towards preventing child trafficking
- Ensuring victims do not face criminal sanctions.

**Create open dialogue about child protection issues by:**

- Collaborating with private sector groups, especially the tourism industry, to raise awareness and encourage acceptance of *The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*
- Raising awareness about child trafficking among other parliamentarians through briefings, holding special sessions and hearings, giving speeches and ensuring that parliament debates the question on a regular basis  
Facilitating the collection of accurate data
- Working with the media to spread informed messages about child trafficking.

**Build capacity of local communities to effectively tackle or prevent the problem by:**

- Supporting groups at the community level who work to combat child trafficking
- Providing assistance to children without caregivers to reduce vulnerability
- Ensuring that all children are registered at birth.

**Involve children in policy decisions which affect their lives by:**

- Supporting Youth Parliaments and listening to their recommendations
- Involving children in policy decisions that impact their lives.

**Implement policies to assist child trafficking victims, including:**

- Establishing mechanisms to rapidly identify and appoint temporary guardians for trafficked children
- Ensure children receive such social services as proper medical attention, counselling, safe housing and necessary legal services
- Making available temporary humanitarian visas until a more permanent solution is determined
- Providing children with access to child appropriate legal justice that provides adequate remedies
- Ensuring that the child is protected during all legal proceedings.

# Chapter 15

## Examples of provisions

### *A. Provisions for a law on humanitarian visas*

*Based on Italian Legislative decree 286/98 on Immigration and Aliens (1998); Article 18 referring to the granting of temporary residence permits*

- § 1** *Whenever police operations, investigations or court proceedings identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the said foreign citizen has seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organisation, then the chief of police may grant a special residence permit enabling the foreign citizen to escape from the situation of abuse and conditioning perpetrated by the criminal organisation and to participate in a social assistance and integration program.*
- § 2** *The residence permit issued in pursuance to this article has a duration of six months and may be renewed for one year or for a longer period, if required for judicial purposes.*
- § 3** *The residence permit provided for by this article enables access to social services and to educational institutions, as well as enrolment in the Employment Bureau, and the possibility of access to employment, providing that the minimum age requirement is met. Should the holder of the residence permit be employed at the date of expiry, then said permit may be renewed for the duration of the employment contract. In the case of an indefinite employment contract, the modalities for the issuance of residence permits on such grounds shall apply. The residence permit provided for by this article may also be converted into a residence permit for educational purposes, when the holder of said permit is enrolled in an official educational institution.*

## ***B. Rehabilitation and social reintegration of victims***

*Based on Model Bilateral Agreement on Cooperation and Mutual Legal Assistance in Protecting Children from Transborder Trafficking, UNICEF Regional Office West and Central Africa (2004)*

**§ 1** *The parties shall implement measures to provide for the physical, psychological and social recovery of child victims of trafficking, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:*

- a) Appropriate housing and nutrition;*
- b) Counseling and information, in particular with regard to their legal rights, in a language that child victims of trafficking can understand;*
- c) Medical, psychological and material assistance; and*
- d) Employment, educational and training opportunities.*

**§ 2** *The parties commit to reintegrate child victims of trafficking into society, taking into account the age, gender and special needs of the child, in providing the child with appropriate housing, nutrition, education and care.*

**§ 3** *Each State party shall guarantee to provide for the physical safety of child victims of trafficking while they are within its territory.*

**§ 4** *After placing the child in an environment that facilitates his or her psychological and physical rehabilitation and social reinsertion, the parties shall conduct periodic follow-up investigations to confirm that such an environment continues to be in the best interest of the child.*

## ***C. Family reunification and repatriation of victims***

*Based on Model Bilateral Agreement on Cooperation and Mutual Legal Assistance in Protecting Children from Trans-Border Trafficking, UNICEF Regional Office, West and Central Africa (2004)*

### **Article 11 – Family reunification**

- § 1** *The Parties shall take all possible measures to ensure that child victims of trafficking are reunited with their family members or previous care-providers, regardless of whether such relatives or providers are in the receiving State, the country of origin or a third State.*
- § 2** *The views of the child should be taken into consideration when considering family reunification and/or return to the country of origin and in identifying a durable solution for the child.*
- § 3** *Where authorities are unable to reunite the child victim of trafficking with his or her family members, the parties agree that such authorities must devise strategies for the child's family or previous care-providers to be identified and to maintain contact with the child. Where direct contact between the child and such relatives or providers is not possible, authorities should periodically inform the family of the whereabouts and well-being of the child until Reunification becomes possible.*

### **Article 12 - Repatriation of Victims**

- § 1** *After trained professionals have determined that repatriation is in the best interest of a child victim of trafficking, the country of origin shall facilitate and accept, with due regard for the safety of the child, the return of the child without undue or unreasonable delay.*
- § 2** *At the request of a receiving State, the requested State shall, without undue or unreasonable delay, verify whether it is the country of origin of a child victim of trafficking.*
- § 3** *In order to facilitate the repatriation of a child victim of trafficking who is without proper documentation, the State party that is the child's country of origin shall agree to issue, at the request of the receiving State, such travel documents or other authorization as may be necessary to enable the child to travel to and reenter the country of origin.*
- § 4** *As soon as possible after a child has been repatriated, the country of origin shall provide the child with physical and psychological rehabilitation and social reinsertion, educational opportunities and protection from re-victimization.*
- § 5** *This article shall be without prejudice to any right afforded to child victims of trafficking by any domestic law of the receiving State.*

## ***D. Provisions prohibiting sex tourism***

*Adopted from Gambia's Sex Tourism Act (2003)*

- § 1** *A tourist or any other person who procures a child –*
- (a) to have sexual intercourse with any person;*
  - (b) for prostitution, whether or not the child procured is already a prostitute;*
  - (c) to become an inmate of a brothel or to frequent a brothel whether or not the child procured is already an inmate of a brothel;*
  - (d) commits an offence and is liable on conviction to imprisonment for a term of 10 years.*
- § 2** *A tourist, or any other person in a position of trust or authority towards a child or with whom a child is in relationship of dependency, who for a sexual purpose –*
- (a) touches, directly or indirectly, or with an object, any part of the body of the child; or*
  - (b) invites or counsels a child to touch, directly or indirectly, or with an object, any part of the body of any person, including the body of the person who so invites or counsels;*
  - (c) commits an offence and is liable on conviction to imprisonment for a term of not less than five years.*

*Adopted from State of Hawaii's Bill Relating to Prostitution (2004)*

- § 1** *No travel agency or charter tour operator shall engage in the selling, advertising or otherwise offering to sell travel services or facilitate travel:*
- (a) for the purpose of engaging in a commercial sexual act;*
  - (b) that consists of tourism packages or activities using and offering sexual acts as enticement for tourism or;*
  - (c) that provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.*

*Adapted from Australia's Crimes (Child Sex Tourism) Amendment Act (1994); No. 105, Division 2: Sexual Offences Against Children Overseas)*

- § 1** *A person must not induce a person who is under 16 to engage in sexual intercourse with a third person outside Australia. It is illegal for a citizen of this State to engage in sexual intercourse with a person who is under 16 while outside Australia. Citizens, residents, companies or corporations found guilty of complicity in the above crime are subject to a term of imprisonment of up to 17 years.*

## **Appendices**



# APPENDIX A

## SAMPLE BILATERAL AGREEMENT Cooperation Agreement Between the Republic of Mali and the Republic of the Cote D'Ivoire in Combating the Transborder Trafficking of Children (2001)

*Excerpt (translated from French)*

### **TITLE II: OBLIGATIONS OF THE PARTIES**

#### Chapter 1: Shared Obligations

##### **Article 4: The parties will work in their respective countries to**

- Intensify informational and sensitization campaigns about the phenomenon of child trafficking aimed at community leaders and educational institutions;
- Adopt regulations concerning the movement of children outside of the territory of each of the State parties;
- Improve the care of victims of trafficking;
- Establish and enhance the capacities of monitoring, intervention and reception organizations and community-based monitoring committees in both human and material resources;
- Broaden national programs combating child trafficking;
- Adopt appropriate measures to repatriate victims of cross-border trafficking;
- Facilitate or encourage the involvement of non-governmental organizations or international organizations;
- Enact specific legislation prohibiting the cross-border trafficking of children;
- Take the necessary measures to prevent and detect child trafficking.

##### **Article 5: The parties jointly agree to**

- Establish a permanent follow-up Commission to this Accord;
- Negotiate a mutual agreement on the financing of repatriation with their partners;
- Share detailed information concerning the identities of the child victims, the traffickers, the locations and the repatriation efforts in process.

#### Chapter 2: Specific Obligations

##### **Article 6: The country of origin agrees to**

- Identify source regions, networks, and professional or intermittent traffickers;
- Put in place a mechanism to oversee the repatriation and reintegration of children in their regions of origin and in their families;
- Contribute to the cost of repatriation of victims;
- Accept the cost of return and reintegration of children in their regions of origin and in their families;
- Intensify preventive efforts in the regions of origin of trafficked children.



**Article 7: The receiving country agrees to**

- Identify placement zones, networks and routes of trafficking within the country;
- Organize and facilitate the repatriation of child victims within their territory to their country of origin or departure, in collaboration with partners involved in the fight against trafficking and to contribute to the process;
- Treat children intercepted within the receiving country and those identified at sites of exploitation in the same manner;
- Ensure the psychological and medical care, nourishment and shelter of child victims;
- Facilitate and hasten the recovery of property, salaries or indemnities, or all other compensation due to the child, in keeping with the laws in force.

***TITLE III: FINAL PROVISIONS***

**Article 8:** The Permanent Follow-Up Commission (pursuant to Article 5), which will meet at least once a month in either one State party or the other, is responsible for bringing recommendations and advice to the attention of the State parties.

- The Commission will be composed of 16 members, with an equal number being appointed by each of the State parties.

**Article 9:** This Accord is in effect for three years, with tacit renewal unless one of the two State parties notifies the other in writing, three months in advance, of its intention to withdraw from the Accord.

**Article 10:** The contracting parties may adopt more strict measures than those authorized in this Accord.

- The parties commit to encourage the creation of professional associations, non-governmental organizations, foundations and research institutions in the private sector to work on the problem of child trafficking.

## APPENDIX B

### SAMPLE MEMORANDUM OF UNDERSTANDING Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region 29 October 2004

(Adapted from original text)

We, the representatives of the Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand and the Socialist Republic of Vietnam:

Hereby solemnly commit to the following actions:

#### ***I. In the area of Policy and Cooperation (national and international):***

1. Encouraging the use of the definition of trafficking contained in the Protocol to Prevent, Suppress and Punish Trafficking in persons, Especially Women and Children supplementing the United Nations Convention on Transnational Organised Crime;
2. Developing national plans of action against trafficking in persons in all its forms;
3. Working towards establishing and strengthening a national, multi-sectoral committee on trafficking in persons with a mandate to coordinate the implementation of the national Plan of Action and other anti-trafficking interventions;
4. Creating mechanisms to strengthen regional cooperation and information exchange, and designating a national focal point on combating trafficking;
5. Improving regional cooperation against trafficking, in particular through bilateral and multilateral agreements; and
6. Strengthening cooperation between Governments, international organizations and non-governmental organizations in combating trafficking in persons.

#### ***II. In the area of Legal Frameworks, Law Enforcement and Justice:***

7. Adopting and enforcing, as quickly as possible, appropriate legislation against trafficking in persons;
8. Adopting appropriate guidelines and providing training for relevant officials to permit the rapid and accurate identification of trafficked persons and to improve the investigation, prosecution and judicial process;
9. Investigating, arresting, prosecuting, and punishing perpetrators of trafficking in accordance with national law;

10. Making available to trafficked persons legal assistance and information in a language they understand;
11. Developing realistic and effective cooperation in the criminal justice system to remove impunity for traffickers and provide justice for victims;
12. Strengthening cross-border cooperation in law enforcement among the six GMS countries to combat trafficking through criminal justice process;
13. Providing the necessary personnel and budgetary support for trafficking response capacities within national law enforcement authorities; and
14. Promoting bilateral or multilateral agreements among the GMS countries to assist each other in the judicial process.

### ***III. In the area of Protection, Recovery, and Reintegration:***

15. Promoting greater gender and child sensitivity in all areas of work dealing with victims of trafficking;
16. Ensuring that persons identified as victims of trafficking are not held in detention by law enforcement authorities;
17. Providing all victims of trafficking with shelter, and appropriate physical, psycho-social, legal, educational, and health-care assistance;
18. Adopting policies and mechanisms to protect and support those who have been victims of trafficking;
19. Strengthening the capacity of the embassies and consulates to ensure that they can more effectively assist trafficked persons;
20. Ensuring cross-border cooperation in the safe return of trafficked persons, including support to ensure their well-being; and
21. Working together to facilitate the successful recovery and reintegration of trafficked persons and to prevent them from being re-trafficked.

### ***IV. In the area of Preventive measures:***

22. Adopting measures to reduce vulnerability including: supporting poverty reduction programs; increasing economic opportunities; ensuring access to quality education and skill training; and providing necessary personal legal documentation, including birth registration;
23. Supporting the development of community protection and surveillance networks for early identification and intervention for those at risk;
24. Raising public awareness at all levels, including through public information campaigns and advocacy, both of the dangers and negative impacts of trafficking, and of assistance available to victims;
25. Applying national labour laws to protect the rights of all workers based on the principles of non-discrimination and equality;
26. Encouraging destination countries, including those from outside the Greater Mekong Sub-Region, to effectively enforce relevant national laws in order to

- reduce acceptance of exploitation of persons that fuels the continuing demand for the labour of trafficked persons, and to suppress the crime of trafficking in women and children through mutual cooperation; and
27. Increasing cooperation with the private sector, especially the tourism and entertainment industries, to take an active role in the fight against trafficking.

***V. In the area of Mechanisms for Implementation, Monitoring and Evaluation of this Memorandum of Understanding:***

28. Developing an initial Sub-Regional Plan of Action against Trafficking in Persons, 2005-2007 and undertaking all necessary efforts to fully implement this Plan;
29. Developing procedures for the collection and analysis of data and information on trafficking cases and ensuring that anti-trafficking strategies are based on accurate and current research experience and analysis;
30. Establishing a monitoring system for the implementation of the Plan of Action to evaluate the status quo and the progress of each country in implementing the commitments covered in this MOU including, at the minimum, annual senior officials meetings;
31. Reviewing the implementation of the Plan of Action and adopting a new Sub-Regional Plan of Action through a GMS Ministerial meeting in late 2007;
32. Creating a national task force to collaborate with the COMMIT Secretariat (United Nations Inter-Agency Project against Trafficking in the Greater Mekong Sub-Region) and other partners;
33. Inviting government funding agencies, as well as relevant United Nations and other inter-governmental and non-governmental organizations and the private sector, to provide financial, material and technical assistance to support GMS countries in their anti-trafficking efforts, including the implementation of this MOU and the forthcoming Plan of Action; and
34. Recognizing that amendments to this MOU may be desirable in the future, the Governments set out the following process for amending the MOU: (1) if four of the six undersigned Governments believe that the MOU should be changed, and inform the Secretariat in writing, a procedure for consultation shall be undertaken by the Secretariat in a mutually convenient manner; (2) the purpose of such a procedure shall be to propose changes to the MOU; (3) any changes to the MOU shall be agreed to unanimously by the six Governments, and the approval of each Government shall be communicated to the Secretariat in writing.

## End Notes

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A person is guilty of promoting prostitution in the third degree when he knowingly:

1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes; or
  2. Advances or profits from prostitution of a person less than nineteen years old. Promoting prostitution in the third degree is a class D felony.
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Inter-Parliamentary Union  
Chemin du Pommier 5  
Case Postale 330  
CH-1218  
Le Grand Saconnex,  
Geneva, Switzerland  
Tel: + 41 22 919 41 50  
Fax: + 41 22 9919 41 60  
E-mail: [postbox@mail.ipu.org](mailto:postbox@mail.ipu.org)  
Website: [www.ipu.org](http://www.ipu.org)

### **Office of the Permanent Observer of the IPU to the UN**

Inter-Parliamentary Union  
220 East 42d Street  
Suite 3102  
New York, N.Y. 10017  
USA  
Tel: +1 212 557 58 80  
Fax: +1 212 557 39 54  
E-mail: [ny-office@mail.ipu.org](mailto:ny-office@mail.ipu.org)

### **UNICEF**

3 UN Plaza,  
NY 10017  
New York  
USA  
Tel: +1 212 326 70 00  
Fax: +1 212 887 74 65  
E-mail: [pubdoc@unicef.org](mailto:pubdoc@unicef.org)  
Website: [www.unicef.org](http://www.unicef.org)