



International Organization for Migration (IOM)
The UN Migration Agency

Trafficking in Human Beings and Smuggling of Migrants in ACP Countries: Key Challenges and Ways Forward

Informing discussions of the
ACP-EU Dialogue on Migration
and Development



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Prepared for IOM by: Lori J. Mann

Editing: IOM Regional Office for the EU, EEA and NATO – Lize Nevens

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International Organization for Migration

Regional Office for the EU, EEA and NATO

40 Rue Montoyer

Brussels 1000

Belgium

Tel.: +32 2 287 70 00

E-mail: ROBrussels@iom.int \ acpeumigrationaction@iom.int

Website: acpeumigrationaction.iom.int

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ACP-EU Dialogue on Migration
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by **Lori Mann**
Brussels, 2018



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The ACP-EU Migration Action

Launched in January 2015, the ACP-EU Migration Action (hereafter referred to as “the Action”) is geared towards supporting activities that promote the recommendations of the African, Caribbean and Pacific (ACP) - European Union (EU) Dialogue on Migration and Development¹ on visas, remittances and readmission (2012),² as well as the recommendations on trafficking in human beings and smuggling of migrants (2015).³ Funded by the 10th European Development Fund (EDF), the Action operates under the auspices of the ACP Secretariat and the European Commission (EC), and is implemented by the International Organization for Migration (IOM).

The overall objective of the Action is to provide support to concrete activities in areas of strategic interest to ACP and EU partners as identified in the recommendations of the ACP-EU Dialogue and implemented in response to ACP countries’ or ACP Regional Organizations’ (ROs) requests for technical assistance for the benefit of migrants, their families and communities.

Specifically, the programme does that by:

- Providing on-demand technical assistance to ACP Governments and ROs;
- Funding the initiatives of Non-State Actors (NSAs) active in ACP countries;
- Collecting and disseminating good practices on the activities of the Action to enhance knowledge building and sharing, and to inform the ACP-EU Dialogue on the results of these activities.

WHAT?	WHO?	WHEN?
1. Shelter	- City Mission - Salvation Army - Lifeline - Other Com. based safe houses	- Immediately - Stay for 2 weeks - 3yrs.
2. Medical	FSC or Family Support Centre Government Clinics Other Clinics	- Intake in limbo - Referral
3. Repatriation & Reintegration	- Shelter - Family PNG - Oxfam - IOM - Relatives	- When the case is complete - When the assess are satisfied and approve...

- 1 A dialogue process to discuss migration issues among the 79 ACP Member States (plus South Sudan) and the 28 EU Member States.
- 2 ACP-EU Dialogue on Migration and Development, ACP-EU Cotonou Agreement (2012). Available from www.register.consilium.europa.eu/doc/srv?l=EN&f=ST%202115%202012%20INIT
- 3 ACP-EU Dialogue on Migration and Development, *Recommendations from the ACP-EU experts' meeting on trafficking in human beings and smuggling of migrants* (2015). Available from www.acpeumigrationaction.iom.int/sites/default/files/docs/Component1/Recommendations_from_the_ACPEU_experts_meeting_on_THB_and_smuggling_2015_EN.pdf

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The author of this report is Lori Mann. Lori holds a Bachelor degree from the University of California at Berkeley and a law degree from Columbia Law School, New York. Lori has been working on human rights issues for 20 years, in diverse countries around the world. She has worked on the topics of human trafficking and migrant smuggling as a consultant for IOM, as well as for other international stakeholders including UNODC, OSCE and the European Centre for Roma Rights.

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Lastly, the editors specifically would like to thank the participants of the Peer-to-Peer exchange meeting on Trafficking in Human Beings and Smuggling of Migrants, from Angola, Benin, the Caribbean Community (CARICOM), the Dominican Republic, the Democratic Republic of Congo, the Economic Community of West African States (ECOWAS), Guinea, Guyana, Haiti, Papua New Guinea, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Senegal, Solomon Islands, Swaziland, Trinidad and Tobago, Vanuatu, Yap State (the Federated States of Micronesia) and the Delegation of the EU to Guyana. Through their participation and interventions, they provided us with valuable inputs to the report.

Background to the report

This report was commissioned by the ACP-EU Migration Action in 2017 as part of the Action's efforts to collect, analyse and disseminate information and knowledge on the results achieved through its activities.

Focusing on trafficking in human beings (THB) and the smuggling of migrants (SoM), experts from ACP and EU countries met in Brussels in July 2014 to discuss their respective policies pertaining to these fields, and to identify concrete areas of cooperation in order to tackle both phenomena in a spirit of shared responsibility and cooperation. The meeting demonstrated a shared commitment to address challenges, and recognized the necessity to deepen cooperation among countries of origin, transit and destination, including by fostering a South–South perspective.

The recommendations⁴ elaborated during the experts' meeting were subsequently validated by the Ambassadors' meeting in January 2015. Soon after, the ACP-EU Migration Action began implementing activities to address the issues of THB and SoM. The ACP-EU Dialogue recommendations on THB and SoM include:

- Enact (or amend) comprehensive national legislation on both trafficking in human beings and the smuggling of migrants, in line with the Palermo Protocols and EU legislation;
- Effectively implement national legislation on trafficking in human beings and migrant smuggling, ensuring victim identification and protection and the prosecution of perpetrators for the full range of existing forms of exploitation;
- Raise awareness regarding THB and SoM among all key stakeholders, including: law enforcement, the judiciary, health care workers and labour inspectors, among others, by providing information and training;
- Promote cross-border and international cooperation among countries of origin, transit and destination through bilateral Memorandums of Understandings (MoUs) and a special focus on South–South cooperation;
- Improve data collection on THB and SoM as a prerequisite for evidence-based policy action;
- Promote a victim-centred, human rights-based, gender-sensitive approach to ensure victim protection and identification in full cooperation with NGOs;
- Dismantle criminal networks through financial tracking and tackling corruption among public officials, and prosecute traffickers and smugglers to prevent impunity;

4 Recommendations on THB and SoM. Available from www.data.consilium.europa.eu/doc/document/ST-2111-2015-INIT/en/pdf

- Improve national-level coordination among multisectoral service providers working in the field of trafficking in human beings and migrant smuggling;
- Address the demand driving migrant smuggling and trafficking in human beings, including through private sector involvement in raising awareness, monitoring supply chains and direct liability.

These ACP-EU Dialogue on Migration and Development recommendations reflect the central pillars of international best practice in addressing both crimes and they also guide the priorities and focus of the technical support provided by the Action. As such, they constitute the organizational structure of this report.

Objective of the report

This report aims to provide a thematic overview and analysis of the work of the Action in addressing the ACP-EU Dialogue on Migration and Development recommendations on THB and SoM to date, coupled with recommendations and suggestions for actions that stakeholders can take to strengthen their response to trafficking in human beings and migrant smuggling.

The report contains:

- *A review of the current state of affairs in those ACP States receiving technical assistance from the Action on combating trafficking in human beings and migrant smuggling;*
- *Highlights of the specific issues addressed at the Action's Peer-to-Peer Exchange Meeting held in Georgetown, Guyana in March 2017 as they relate to the situation in ACP States;*
- *Descriptions of some of the activities supported by the Action to address trafficking in human beings and migrant smuggling;*
- *An analysis of the links between the Action's activities on trafficking in human beings and migrant smuggling and the ACP-EU Dialogue on Migration and Development, and the relevance they have for ACP countries;*
- *A short outline for each country where activities to address trafficking in human beings and migrant smuggling have taken place within the framework of the Action's work;*
- *Highlights of innovative initiatives and specific challenges that can inform future discussions on addressing trafficking in human beings and migrant smuggling within the framework of the ACP-EU Dialogue on Migration and Development.*



Executive summary

Trafficking in human beings (THB) and smuggling of migrants (SoM) are occurring on a global scale, and this is no less true for ACP countries. Both phenomena are increasingly present on the political agenda of these States, with positive effects. However, it is also clear that many challenges remain. Taking the ACP-EU Dialogue on Migration and Development, as well as the work of the ACP-EU Migration Action as a starting point, this publication aims to analyse current responses as well as to provide recommendations on ways forward on counter-trafficking and counter-smuggling efforts in ACP States.

Smuggling of migrants and trafficking in human beings have clearly distinct definitions. Consent on the part of the smuggled person is central to migrant smuggling.⁵ However, migrants may feel they have little choice but to seek assistance from smugglers in view of tightening border controls and restricted options for legal migration, and against the backdrop of growing economic inequalities, environmental crises, armed conflict, political instability, persecution and the search for a better life. Trafficking in persons, on the other hand, is committed for the purpose of exploiting the trafficked person, through the threat or use of force or other forms of coercion, fraud, deception, abduction, abuse of power, 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.⁶ A globalized economy, fostering demand for diverse types of exploitation, in some cases amplifying existing socio-cultural norms that could lead to or consist in themselves of trafficking, constitutes the backdrop of this issue that affects every country in the world, be it as the place of origin, transit or destination of victims.^{7,8} It is also important to acknowledge the interrelatedness of both phenomena. Some migrants might start their journey by agreeing to be smuggled into a country irregularly, but find themselves misled, intimidated or forced into an exploitative situation.

5 As per the Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol). Another important aspect relates to the purpose of the smuggler, namely obtaining a financial or other material benefit.

6 As per the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

7 The global magnitude of trafficking in human beings is difficult to validate. As the IOM Global Compact Thematic Paper on Trafficking in Persons (2017) lays out: "While definitional conflicts between "slavery", "forced labour", "exploitation", and "trafficking in persons" account for at least some of the uncertainty, (...) the often clandestine nature of the problem is responsible for much of the rest."

8 UNODC furthermore estimates that more than 63,000 victims of trafficking were identified between 2012 and 2014. See UNODC, Global Report on Trafficking in Persons, 2016.

These people face increased risk of trafficking in human beings in addition to other grave human rights violations, and for too many, the journey ends in death.⁹ When States execute their legitimate right to protect their borders to enhance security, protect human rights and combat transnational organized crime, but do so by over relying on unilateral restrictions on migration, which in turn drives migrants to resort to the use of smugglers and makes them vulnerable to traffickers. Combating trafficking in human beings and migrant smuggling therefore requires holistic, long-term interventions. Law enforcement should be combined with a rights-based, victim-centred approach that protects trafficking victims as well as vulnerable migrants, and with prevention efforts that address demand and offer realistic, practical alternatives to irregular migration linked to development. The ACP States that have poised to receive technical support through the ACP-EU Migration Action are in various stages of addressing both crimes: from information gathering in targeted studies in order to obtain a clear picture of the nature and extent of both phenomena, to establishing specialized criminal policing and investigation units. Despite important steps already being taken, most remain, to date, at the earliest stages of developing adequate, comprehensive responses.¹⁰

This publication aims to further analyse this state of affairs in ACP countries and to provide recommendations for ways forward, with a specific focus on the countries that have received technical assistance through the ACP-EU Migration Action. The analysis is structured around seven areas of intervention for combating THB and SoM, and identifies four cross-cutting issues that should be considered throughout the whole response spectrum.

Most of the recipients of the Action's technical assistance support have in place anti-trafficking and anti-migrant smuggling legislation that generally conforms to the framework established by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air.¹¹ But critical gaps remain. Based on the technical assistance interventions conducted by the Action, Pacific countries demonstrate the smallest advances in this regard, which can be attributed to the absence of information on the incidence of the crimes and to the generalized lack of reliable data. While criminal legal frameworks can be strengthened across ACP States, low awareness of trafficking and smuggling legislation and their differences, the weak imple-

9 Also for smuggling of migrants, insufficient data is available to estimate the global magnitude of the phenomenon. As an illustration, Europol estimates that 90 per cent of the 1 million irregular migrants who entered the EU in 2015 were facilitated by smugglers, resulting in a EUR 3-6 billion profit. See Europol, 2016, Migrant Smuggling in the EU. Available from www.europol.europa.eu/publications-documents/migrant-smuggling-in-eu.

10 See for example U.S Department of State, Trafficking in Persons Report 2017.

11 Both supplement the United Nations Conventions against Transnational Organized Crime (UNTOC) (2000).

mentation of existing laws, the lack of comprehensive legislation on trafficking- and smuggling-related issues and underlying primary governance problems constitute additional significant barriers to addressing THB and SoM.

The prevention of, and response to, trafficking in human beings and migrant smuggling requires a comprehensive, “whole of government” approach. It touches upon a myriad of related issues, inter alia: corruption, access to civil registration documents, labour laws and inspections, access to social welfare, gender-based violence, child protection and migration. As many of the recipients of the Action’s support are poor and/or Small Island States, they face basic infrastructure and primary governance challenges that necessitate, but at the same time complicate, the provision of specialized technical assistance. Meeting the demand for institutional strengthening and capacity building requires adapting methodologies to the particularities of each country, including geographical and resource constraints, as well as the ways in which social and cultural norms function in relation to forms of exploitation and gender-based violence that lead to, or themselves might constitute of trafficking in human beings.

Cooperation is the cornerstone of effective anti-trafficking and anti-migrant smuggling initiatives, and is required between States, institutions and non-State actors at all levels: subnational, national and international. Several ACP State recipients demonstrate increasingly effective cooperation at diverse levels, especially where such efforts benefit from existing structures and/or support at the regional level, such as regional platforms or cooperation agreements. However, for most State recipients, weak inter-agency cooperation at the national level constitutes a huge barrier to the effective implementation of laws and policies. National inter-agency coordination mechanisms to address trafficking in human beings and migrant smuggling (where existent) remain new for many of the examined ACP States, and few work systematically with civil society organizations. Cooperation between States is crucial for disrupting both the smuggling and trafficking business models, given the inherently transnational nature of the former and the often -albeit not always- international character of the latter. Cross-border collaboration must hence also be strengthened, especially with regards to data sharing, investigations, prosecutions and returns. Yet, the best examples of cooperation do not focus on policing alone, but include elements of prevention and development, and the integration of a human rights-based approach. The potential use of regional mechanisms should be highlighted too, given the increased interest by stakeholders in this modality of South-South cooperation, and the large percentage of victims trafficked regionally.

The most striking gap among ACP State recipients is the absence of the provision of assistance to, and the protection of, trafficking victims and smuggled migrants, which should be at the heart of any anti-THB and anti-SoM strategy. Upholding human rights remains central for all cases. In addition to the rights accorded to trafficking vic-

tims, and those accorded to smuggled migrants, specific needs due to individual trafficking or smuggling experience, as well as characteristics such as gender and age and socio-cultural norms, should be taken into account. To date, little efforts have been made in most of the examined countries to develop referral systems and for ensuring that victims are duly identified and receive the needed assistance. Moreover, cases were noted where victims of trafficking and smuggled migrants were not shielded from prosecution - as is set forth by the Protocols - and in few countries they are subject to immediate deportation and potential refoulement.¹² In some countries, civil society actors play an important role in providing shelter and other basic necessities. Yet sometimes they operate with no clear mandate to assist trafficking victims or vulnerable migrants specifically, indicating a potential lack of experience and expertise in addressing the needs and rights of trafficking victims and smuggled migrants. In addition, many operate with little if any government support or involvement.

Prevention efforts should raise awareness on trafficking in human beings and smuggling of migrants among the public, while addressing the root causes of both phenomena, and targeting a wide range of stakeholders. Many of the examined ACP countries have organized, or are in the process of organizing capacity building for government entities at the policy and/or frontline level, including awareness raising on these phenomena. However, prevention and awareness raising should target and actively involve a wider range of stakeholders, for example traditional community leaders and diaspora, given the direct contact they have with (aspiring) migrants in many ACP countries. Communities should also be consulted in the design of awareness campaigns. The private sector is another key partner for prevention efforts in ACP countries, especially when addressing the demand side of the trafficking chain. Any meaningful prevention effort must be associated with realistic alternative options to unsafe migration, such as development and work opportunities that benefit migrants and their societies in the countries of origin and destination.

Finally, reliable data is the most basic prerequisite for developing policies that are evidence based and respond appropriately to the local context. However, in many of the examined ACP countries, data tends to range from anecdotal to non-existent. In many instances, capacity building on data management, analysis and sharing is needed, at the inter-agency as well as the international level. Proper case management systems with standardized interfaces are also essential. However, the limitations in both infrastructure and resources should be taken into account and in that sense, international methodologies and systems for data collection and management should be adapted to the local context.

12 The forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution.

Through a series of baseline assessments, the ACP-EU Migration Action has identified the above mentioned gaps among other specific barriers to effective anti-trafficking and anti-smuggling strategies. Such assessments are conducted within each targeted country and form the foundation of the related technical assistance support. In light of its work with States and Regional Organizations throughout the African, Caribbean and Pacific regions, the Action remains poised to provide the needed technical assistance and to contribute new knowledge to the concrete dialogue that is ongoing between States within the ACP-EU Partnership framework. The recommendations presented at the conclusion of the report build upon those issued by the ACP-EU Dialogue on Migration and Development and seek to highlight emerging challenges while bringing the achievement of stakeholders and the related good practices to the fore. This analysis seeks to produce knowledge that can be adapted for use in other context where States struggle with these same phenomena.



Abbreviations

AVRR	assisted voluntary return and reintegration	MIDWA	Migration Dialogue for West Africa
ACP	African, Caribbean and Pacific Group of States	MiGOF	Migration Governance Framework
BA	Baseline Assessments	MoU	memorandum of understanding
CARICOM IMPACS	Caribbean Community Implementing Agency for Crime and Security	NATO	North Atlantic Treaty Organization
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	NAP	National Action Plan
CERD	Convention on the Elimination of Racial Discrimination	NGO	non-governmental organization
CMC	Caribbean Migration Consultations	NRM	National Referral Mechanism
COMESA	Common Market for Eastern & Southern Africa	NSA	non-state actor
CSO	civil Society organization	PTCN	Pacific Transnational Crime Network
CRC	Convention on the Rights of the Child	PTCCC	Pacific Transnational Crime Coordination Centre
EC	European Commission	P2P	peer-to-peer
ECCAS	Economic Community of Central African States	RCM	Regional Conference on Migration
ECOWAS	Economic Community of West African States	RMMS	Regional Mixed Migration Secretariat
EDF	European Development Fund	RO	regional organizations
EU	European Union	SADC	South African Development Community
FRONTEX	European Border and Coastguard Agency	SDGs	Sustainable Development Goals
GBV	gender-based violence	SIDS	Small Island Developing States
GCM	global compact for migration	SoM	Smuggling of Migrants
GloACT	Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants	SOP	Standard Operating Procedure
IAMM	International Agenda for Migration Management	TACT	Transnational Action to Support Victims of Trafficking
IASC	Inter-Agency Standing Committee	TA	technical assistance
ICAT	Inter- Agency Coordination Group against Trafficking in Persons	TCU	Transnational Crime Unit
ICCPR	International Covenant on Civil and Political Rights	THB	trafficking in human beings
ICMPD	International Centre for Migration Policy Development	TiP	trafficking in persons
IGAD	Intergovernmental Authority on Development	TRM	Transnational Referral Mechanism
ILO	International Labour Organization	UN	United Nations
INTERPOL	International Police Organization	UNHCR	Office of the United Nations High Commissioner for Refugees
IOM	International Organization for Migration	UNICEF	United Nations Children’s Fund
JIT	Joint Investigative Team	UNODC	United Nations Office on Drugs and Crime
JRCC	Joint Regional Communication Centre	UNOHCHR	United Nations Office of the High Commissioner for Human Rights
LDC	least developed country	UNTOC	United Nations Convention on Transnational Organized Crime
LGBTI	lesbian, gay, bisexual, transgender and intersex	VoT	victim of trafficking
MICIC	Migrants in Countries in Crisis		
MIDSA	Migration Dialogue for Southern Africa		

Methodology of the report

The content of this report draws from desk-based research and information and analysis drawn from stakeholder meetings.

Desk-based research. Sources included Baseline Assessment (BA) and Technical Assistance (TA) reports produced by the Action up to July 2017 in the sectors of THB and SoM. Some of these materials are fully or partially available on the website of the ACP-EU Migration Action.¹³ Other sources include international standards and previously published reports on THB and/or SoM by relevant stakeholders in these fields, such as the Thematic Papers produced by IOM for the Global Compact on Migration, UNODC's *Global Report on Trafficking in Persons* and the annual *Trafficking in Person's Report* issued by the US Department of State, among others. Referenced sources are listed in *Annex 1*.

Information and analysis arising from stakeholder meetings. Much of the content of this report was drawn from discussions held during the ACP-EU Migration Action's Peer-to-Peer Exchange Meeting held in Georgetown, Guyana in March 2017 (henceforth "P2P Exchange"), and from the ACP-EU Dialogue on Migration and Development's Seminar on Trafficking in Human Beings and Smuggling of Migrants held in Brussels, Belgium in November 2016 (henceforth "ACP-EU Dialogue Seminar"). The participants at these meetings represented a wide range of stakeholders, including: ACP and EU States, European Commission, EEAS, EU agencies representatives, ACP Regional Organizations, International Organizations, civil society and independent experts.

Structure of the report

Section I introduces the phenomena of THB and SoM, covering current trends and international standards and practices implemented globally to combat both crimes and to assist and protect victims.

Section II sets forth the challenges faced by those ACP countries receiving the Action's technical assistance to combat trafficking in human beings and migrant smuggling within the global context presented in Section I.

Section III presents the conclusions of the report together with a list of recommendations for addressing identified challenges.

Section IV includes the fiches drafted for each country in receipt of technical assistance.

13 www.acpeumigrationaction.iom.int



Introduction

Migrant smuggling and trafficking in human beings are both global phenomena, often fueled by growing economic inequalities, environmental crises, armed conflict, political instability, persecution and the search for a better life. A globalized economy, fostering demand for cheap labour and offering images of a better life, coupled with increasingly stringent migration control and limited options to migrate regularly, make migrants resort to smugglers and render them vulnerable to traffickers. While it is difficult to estimate the actual number of trafficked persons and smuggled migrants,¹⁴ the staggering number of migrants seeking entry into Europe witnessed over the past few years, most of whom hired smugglers, captured the world's attention.¹⁵

In many countries, migration functions as a release valve for the social and political pressures created by poverty and the lack of opportunity and unemployment among large segments of the population. It constitutes a community survival strategy, providing an economically sustaining flow of remittances into impoverished areas, which States attempt to capitalize on for development purposes.¹⁶

Where migration, regular or irregular, has become structurally embedded into the political economies of certain States and regions, in the face of reduced pathways for legal migration and strict border control, migrant smuggling and trafficking in human beings often thrive.¹⁷ Of increasing concern are the complex relationships developing

14 For trafficking, UNODC estimates that more than 63,000 victims of trafficking were identified between 2012 and 2014. See UNODC, *Global Report on Trafficking in Persons*, 2016. Actual numbers of victims are likely to be much higher.

15 UNHCR, *Global Trends: Forced Displacement in 2015* (2016, reporting that at the end of 2015, more than 65 million people were forcibly displaced worldwide as a result of persecution, conflict, violence or human rights violations; an increase of 6 million in one year). See also, Europol, *Migrant Smuggling in the EU*, p. 5 (finding that of the more than one million irregular migrants that reached the EU in 2015, “[m]ore than 90% of these irregular migrants use facilitation services at some point during their journey. In most cases, these were provided by migrant smuggling networks.”).

16 For example, in 2013, Senegal benefitted from USD 1.5 billion in remittances. See, e.g. Senegal Mapping BA, TA/027/2016, pp. 13, 15 (citing World Bank statistics; and noting the Government's targeting of diaspora communities in its national development plan).

17 Frontex, *People Smuggling in the Central Mediterranean*. Available from www.publications.iom.int/books/addressing-human-trafficking-and-exploitation-times-crisis-evidence-and-recommendations-0, last checked 31 July 2017 (noting that “people smuggling is an important source of income for a large part of the population of Agadez”). Lelu, David and Dieng, Mamadou, ACP-EU Migration Action, *Cartographie des zones à risque ou de départ de la migration irrégulière au Sénégal*, TA/027/2016, pp. 10, 32 (henceforth “Senegal Mapping TA, TA/027/2016”; noting the privileges accorded to the diaspora by the Government, including border reception and access to credit). See also, IOM, *Migrant Smuggling Data and Research: A global review of the emerging evidence base* (2013), pp. 29, 86. Available from www.publications.iom.int/system/files/smuggling_report.pdf, last checked on 6 August 2017; Ben Taub, *We have no choice: The desperate journey of Blessing, one of the Nigerian girls who try to reach Europe*, *The New Yorker*, 10 April 2017 (quoting a Tuareg leader in Agadez, who observed that the “city's only functioning economy was the movement of people and goods. ‘Each smuggler supports a hundred families,’ he said. If the crackdown continued, ‘these families won't eat anymore.’” Quoting another Tuareg working in Agadez who stated: “We are not criminals – we are transporters! How are we going to eat?”).

between SoM, THB and terrorism.¹⁸

Trafficking in human beings and migrant smuggling constitute serious crimes and often result in grave violations of human rights, affecting men, women and children. Traffickers and smugglers often employ the same routes and means of transportation and the crimes themselves frequently overlap. However, migrant smuggling and trafficking in human beings are distinct crimes, as the chart on the following page indicates.

The distinctions related to consent can be quite subtle, as a migrant might initially agree to be smuggled, only to be deceived and exploited after the journey has commenced. Indeed, smuggled migrants are extremely vulnerable to being trafficked. Moreover, both smuggled migrants and victims of trafficking might also be refugees in need of protection and assistance.

Combating both crimes requires “a holistic, multi-level and long-term approach” that encompasses South–South as well as North–South dimensions.¹⁹ The focus “should not be solely on law enforcement, but also on addressing root causes (including demand), preventive policies and protection of victims”.²⁰ The participants at the ACP-EU Dialogue Seminar in November 2016 concluded:

Without addressing the reasons that drive people to migrate as well as investing in suitable alternatives (e.g. better channels for legal migration, employment opportunities in countries of origin), combatting both crimes is merely symptom treating. Therefore, both crimes need to be considered from a development perspective.²¹

18 See, e.g. IOM, *Migrant Smuggling Data and Research*, p. 126 (noting the “growing fears about the use of the main smuggling paths by Islamic State fighters to enter Western European countries and spread violence”); Ben Taub, *We have no choice: The desperate journey of Blessing, one of the Nigerian girls who try to reach Europe*, *The New Yorker*, 10 April 2017 (stating with regard to his investigation into migrant smuggling routes in Africa: “Every smuggler I met expressed concern that the crackdown in Agadez [Niger] would leave local young men vulnerable to recruitment by jihadi groups”).

19 Seminar Report, ACP-EU Dialogue on Migration and Development, Seminar on Trafficking in Human Beings and Smuggling of Migrants, 22–23 November 2016, Brussels, Belgium, pp. 1, 4 (henceforth, “ACP-EU Dialogue, Seminar Report”).

20 ACP-EU Dialogue, Seminar Report, pp. 1, 4.

21 ACP-EU Dialogue, Seminar Report, p. 5; see also, Senegal Mapping TA, TA/027/2016, pp. 39–40.

TRAFFICKING IN HUMAN BEINGS

Trafficker's transport and transfer people from one place to another, internally or across borders.

A crime against the individual as well as against the State.

Traffickers use the means listed in Article 3 of the trafficking Protocol (deception, force, fraud, abuse of power or coercion) in the execution of one or more activities. The deceptive or abusive means involved render any initial consent by the trafficked person irrelevant.

Always for the purpose of exploiting the victim. The relationship between the trafficker and victim is continuous for the purpose of exploitation. Trafficking victims are not free to end the relationship with the trafficker without risking serious consequences.

Human trafficking can either be internal / domestic (within a country's border), or trans-national (across international borders). It may also involve illegal or legal entry into a country.

ACTION

CRIME

MEANS

PURPOSE

TRANS-NATIONALITY

SMUGGLING OF MIGRANTS

Smugglers facilitate the transportation, attempted transportation or irregular crossing of a person(s) across an international border.

A crime against the State.

Migrant Smuggling involves the initial consent of the smuggled person, with no element of distortion of the free will of the person.

Smugglers often do not transport migrants with the intention of exploiting them, and even though they sometimes abuse the position of vulnerability of the persons in their charge, they do not do so for the purpose set out in article 3 of the Protocol. The relationship between the two generally stops at the point at which illegal entry is achieved. The smuggler's relationship with the smuggled migrant normally ends once the fee is paid and the illegal entry has been achieved.

Smuggling is always transnational in nature, i.e. an international border must be crossed for smuggling to occur. Smuggling always involves the illegal crossing of an international border.

Source: Adapted from table by Tim Howe, IOM Regional Thematic Specialist for East & Horn of Africa.

As further underscored in the ACP-EU Dialogue Seminar and the P2P Exchange, many materials and tools to combat both crimes and to protect victims already exist and after adaptation to the local context could be used by ACP States.²² Such tools include: UNODC's Toolkit to Combat Trafficking in Persons²³ and In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants,²⁴ IOM's Transnational Action to Support Victims of Trafficking (TACT) project and numerous training manuals and curricula and draft standard operating procedures produced by these and other intergovernmental and regional bodies.

Establishing comprehensive national legal and policy frameworks constitutes the most basic prerequisite for effectively combating trafficking in human beings and migrant smuggling. The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Trafficking Protocol) and the *Protocol against the Smuggling of Migrants by Land, Sea and Air* (Migrant Smuggling Protocol) set forth international standards pertaining to both crimes, and with which State signatories are expected to align their national laws and policies. The legal models established by the Protocols are comprehensive, entailing definitions of the crimes and protective measures and access to services for victims, and foreseeing international cooperation, recognizing that both crimes can only be addressed through a holistic and coordinated approach.

ACP States face numerous challenges in combating these crimes. Those targeted by the ACP-EU Migration Action's support fall into two categories established by the UN. These are: Least Developed Countries (LDCs), based on economic vulnerability and human asset indicators, and Small Island Developing States (SIDS).²⁵ Social and institutional (i.e., political, economic and cultural) structures can cause deprivation, inequalities and increased vulnerabilities. They often underlie forms of intentional violence, such as gender-based violence. Often falling victim to the overlay of this structural and intentional violence, the populations of these countries are among the world's most vulnerable.

22 ACP-EU Dialogue, Seminar Report, p. 2.

23 Available from www.unodc.org/documents/human-trafficking/HT_Toolkit08_English.pdf, last checked 7 August 2017.

24 Available from www.unodc.org/documents/human-trafficking/Migrant-Smuggling/In-Depth_Training_Manual_SOM_en_wide_use.pdf, last checked, 7 August 2017.

25 See, UN Department of Social and Economic Affairs, Development Policy & Analysis Division, List of 48 LDCs (including: Angola, Benin, the Democratic Republic of Congo, Guinea, Haiti, Lesotho, Senegal, the Solomon Islands and Vanuatu) available at: www.un.org/development/desa/dpad/least-developed-country-category/lcds-at-a-glance.html; and Sustainable Development Knowledge Platform (including: Papua New Guinea, Trinidad and Tobago, Saint Lucia, Dominican Republic, Solomon Islands, Samoa, the Federated States of Micronesia, and Saint Vincent and the Grenadines). Available from www.sustainabledevelopment.un.org/topics/sids/list, last checked 20 May 2017. Vanuatu, Solomon Islands and Haiti fall under both categories.

Many of the ACP countries receiving the Action's technical assistance are in the early stages of combating these crimes, and have not yet moved from developing law and policy to its practical implementation. For many, this process has been protracted due to a number of factors, such as the lack of resources, primary governance and rule of law challenges, including corruption and weak capacity, and the lack of knowledge among key stakeholders. Traditional cultural norms and plural legal systems constitute additional obstacles to both recognizing THB and SoM and developing an adequate response.

At the same time, recipients of the Action's technical assistance to date all currently are situated at the early stages of developing comprehensive responses.²⁶ Identified challenges include, inter alia: inadequate legal and policy frameworks; insufficient data, rendering the scale and the nature of the crimes unknown; the absence of cooperation among key stakeholders at the national, regional and local levels; insufficient awareness and understanding of the crimes; lack of human and resource capacity to effectively implement existing laws and policies; a lack of sensitivity and range services to address the needs and rights of victims of trafficking in human beings; and, the need for targeted and tailored awareness-raising campaigns as a means of prevention.

The Action offers technical assistance to ACP countries, along the lines of the ACP-EU Dialogue recommendations on THB and SoM, to effectively address these and other current challenges in tackling trafficking in human beings and migrant smuggling, and supports opportunities for dialogue and coordination between key stakeholders and policymakers. This report serves as a thematic analysis of the work of the Action to date, placing it within the context of global discussions and debates surrounding THB and SoM.

²⁶ See, US Department of State, *Trafficking in Persons Report 2017*. Available from www.state.gov/j/tip/rls/tiprpt/2017/, last checked on 18 July 2017.

Recommendations elaborated by the Expert's meeting on 9/10 July 2014 and validated by the Ambassadors' meeting on 28 January 2015

Experts of the EU and the ACP countries met on 9 and 10 July 2014 in Brussels to discuss their respective policies in the field of trafficking in human beings and smuggling of migrants and identify concrete areas of cooperation in order to tackle both phenomena in a spirit of shared responsibility. The meeting has demonstrated the shared will to address those challenges and the necessity to deepen the cooperation among countries of origin, transit and destination including in a South-South perspective. The experts of both sides agreed on the following operational conclusions.

1

Where relevant, enacting comprehensive legislation on both trafficking in human beings and smuggling of migrants, stressing the differences between both phenomena, and in line with the UN Protocols on Trafficking in Persons and Migrants smuggling supplementing the United Nations convention against Transnational Organised Crime (the Palermo Protocols) and the EU legislation.

2

Effectively implementing national legislation on both trafficking in human beings and smuggling of migrants is key. Currently, the vast majority of the victims are neither identified nor protected and by the same token, most of the criminal networks act in impunity and are neither dismantled, nor prosecuted. Proper implementation also means to effectively tackle the different forms of exploitation (for example exploitation in the field of sport, schooling activities or sexual tourism). It is also of utmost importance to properly involve non-governmental organizations especially as regards the relations with the victims of criminal networks.

3

Raise awareness regarding trafficking in human beings and smuggling of migrants among all the persons that are in a position to identify victims or collect hints leading to the dismantlement of criminal networks. Proper information and, if necessary, training should be provided not only to judiciary and law enforcement authorities, but also to health care workers and labour inspectors, among others. It is also crucial to stress the role and practices of criminal networks.

See parts

A

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4

Promote cross-border and international cooperation among the countries of origin, transit and destination with a specific focus on the sometimes ignored South-South dimension of trafficking in human beings and smuggling of migrants. Encourage the conclusion of bilateral Memoranda of Understanding between countries, both North-South and South-South.

5

Improve the collection of data on both trafficking in human beings and smuggling of migrants as this is a prerequisite to define efficient policies and concrete actions.

6

Promote a victim-centred approach thereby protecting the victims from a human rights and gender perspective and foment all the necessary means to properly identify them. For those purposes, it is of the essence to involve non-governmental organizations as they are better placed to enter into a relation of trust with the victims. It is also important to further promote the case of victims of smuggling of migrants as, despite the consent given, they are in a vulnerable situation.

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G

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E/X1/ X4

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7

Step up efforts to dismantle criminal networks and prosecute criminals, both traffickers and smugglers, as they represent a direct threat to the lives of migrants. Trafficking in human beings and smuggling of migrants are first and foremost about making money, about benefitting from the vulnerability of others. For that purpose, setting up systems of financial tracking and conducting proper financial investigations going beyond the freezing of assets are of the essence. Tackling corruption among public officials and other relevant bodies should also be an effective part of the strategies to dismantle and prosecute criminal networks.

8

Improve at national level the coordination among the different services involved in the field of trafficking in human beings and smuggling of migrants. Given the horizontal nature of both phenomena and the high number of bodies involved, proper mechanisms of inter-service coordination are key to obtain concrete results.

9

Addressing the demand side is also part of the answer to combat smuggling of migrants and trafficking in human beings, especially the latter. The involvement of the private sector (supply chain, awareness raising, liability) should also become a priority for national, regional and international authorities.

Source: ACP-EU Dialogue on Migration and Development

See parts

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Applications for technical assistance through the Action

Developed within the framework of the ACP-EU Dialogue on Migration and Development, the Action has become an important process for discussing migration issues among the 79 ACP Member States (plus South Sudan) and the 28 EU Member States. The ACP-EU members decided to focus specific attention on trafficking in human beings and migrant smuggling. Consequently, the objective of the Action is to support activities in the areas of strategic interest to the ACP-EU Dialogue on Migration through three interlinked components.

As part of the first component, the Action aims to address gaps in actions tackling THB and SoM through the provision of demand-driven technical assistance (TA) to 80 ACP governments (the 79 members of the ACP Group of States and South Sudan).

ACP States remain at various stages of legal and institutional development, and many national-level stakeholders have neither a strong technical, nor a practical understanding of the phenomena of both crimes in their countries. It is essential that all parties involved in developing and implementing these strategies have and maintain a clear understanding of the issues.²⁷ This explains the focus on requests that develop studies and research on the topics of THB and/or SoM, or on capacity-building efforts for government and non-governmental entities.

Prior to delivering technical assistance, the Action conducts Baseline Assessments (BAs), which contain a situational analysis covering the current legal and policy framework, the existence and capacity of relevant stakeholders and the identification of key challenges, among other information relevant to the specific context or intervention. For a few States, it appears that the data gathered for the purpose of the BA constitutes the most comprehensive, if not the only existing systematized data. ACP-EU Action assistance fills an important gap in this regard, as effective anti-trafficking and anti-migrant smuggling strategies “must be based on accurate and current information, experience and analysis”.

This report covers 14 BAs that have been produced for 13 States: Papua New Guinea, Samoa, Solomon Islands, Vanuatu, Saint Vincent and the Grenadines, Saint Lucia, Haiti, Trinidad and Tobago, the Dominican Republic, Angola, Swaziland, Guinea and two in Senegal. As of July 2017, TA projects were completed in Vanuatu, Solomon Islands, the Dominican Republic, Saint Vincent and the Grenadines, Haiti, Guinea, and two in Senegal. Others are currently being implemented. More information on each of the requests can be found in the annexed country *fiches*.

27 OHCHR, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, Guideline 3.

The second component is the promotion of initiatives implemented by ACP based non-state actors (NSAs). The third component, catalysing lessons learned from the first two components, involves a set of varied activities to feed discussions of the ACP-EU Dialogue on these topics.

Interventions covered in this report

(Concluded*)

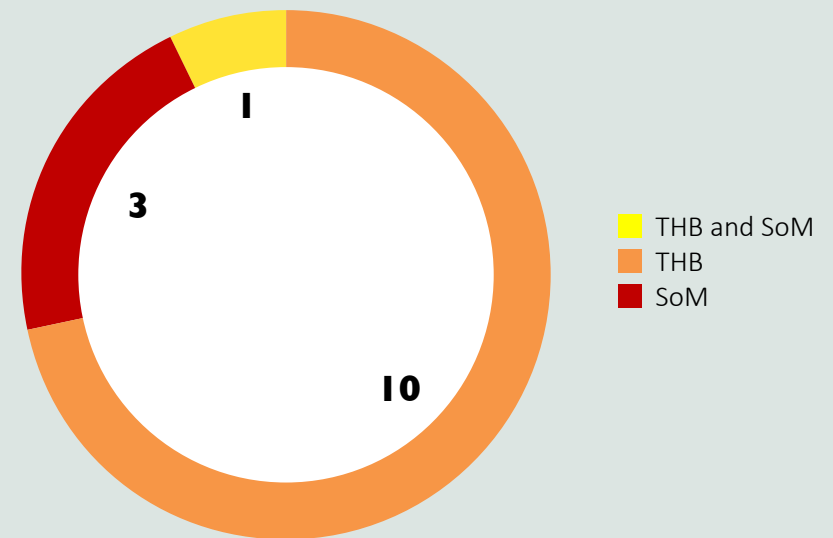
- Senegal I
- Senegal II
- Guinea
- the Dominican Republic
- Saint Vincent and the Grenadines
- Haiti
- Solomon Islands
- Vanuatu

(Ongoing*)

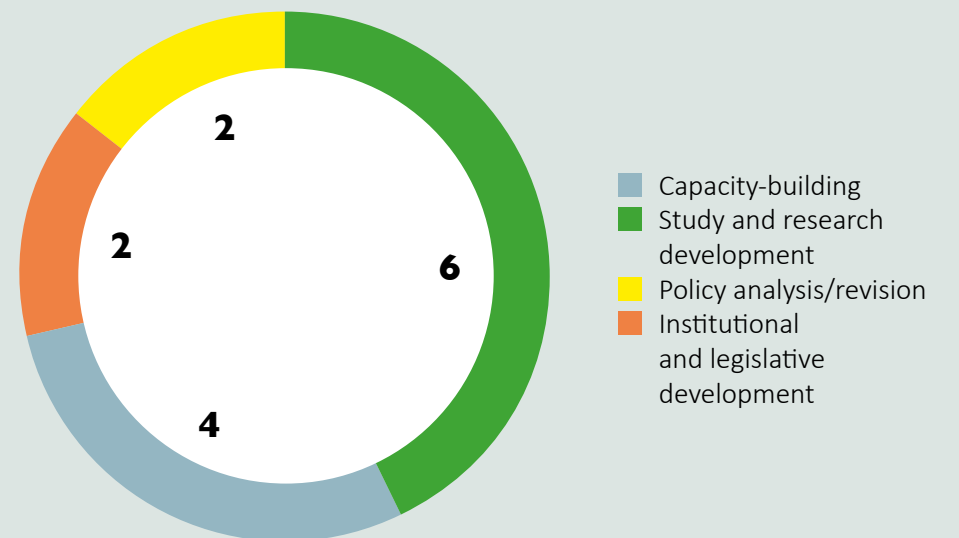
- Angola
- Samoa
- Saint Lucia
- Trinidad and Tobago
- Swaziland
- Papua New Guinea

* at the time of writing

THB and SoM support to ACP States



Type of support



Overview of trafficking in human beings in ACP regions

This section contains information on regional trends in trafficking in human beings and migrant smuggling in Africa, the Caribbean and the Pacific. It is drawn from the reports of intergovernmental organizations engaged in combating both crimes, such as IOM, the Action and UNODC. Reliable national-level data from some countries in these regions remains virtually non-existent on these issues, underscoring the need for the Action's support to requesting States to fill this critical gap, such as in the technical assistance provided to Vanuatu, Solomon Islands, Senegal, Angola and Swaziland. As IOM has observed:

While there is now an abundance of qualitative data, quantitative estimates of the prevalence of human trafficking at the national, regional and global levels are difficult to validate due to the clandestine nature of the crime and the difficulty in accessing affected groups and individuals.²⁸

Specifically, information provided by international organizations pertaining to the two crimes in the Caribbean and Pacific tend to be combined with that of larger regions. Data from the Caribbean is mixed with that of Central America; data from the Pacific is mixed with that of East and/or Southeast Asia, thus obscuring their distinct characteristics and trends.²⁹ The existence of reliable information on migration, migrant smuggling and trafficking in human beings from countries in Africa is also scarce. However, data is collected by State and regional agencies in destination countries in Europe, which provides some, albeit uneven, information.

Geographical scope

Most countries around the world are affected by trafficking in human beings, whether as countries of origin, transit, destination, or very commonly all three.³⁰ People are rendered vulnerable to trafficking in human beings due to diverse factors, such as poverty, armed conflict and gender-based violence. Increasing attention is being paid to demand as a central factor driving trafficking in human beings, namely the demand

28 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, 2017, p. 3.
29 See, UNODC, *Transnational organized crime in the Pacific: A threat assessment* (2017), p. 36 (noting "the considerable dearth of available data" on THB and SoM).
30 The ACP States for which BAs and the TAs have been prepared are almost all countries of origin, transit and destination for victims of trafficking. The three exceptions include: Angola and Saint Lucia, which are source and destination countries; and, Vanuatu, for which the characteristics and nature of any trafficking in human beings remain unknown. See, US Department of State, *Trafficking in Persons 2017 report*. Available from www.state.gov/documents/organization/271344.pdf, last checked 4 December 2017.

AT A GLANCE

Sub-Saharan Africa

- *Most identified victims from sub-Saharan Africa were trafficked to other regions (transregional);*
- *Majority of identified victims: children;*
- *forms of trafficking: forced labour and child soldiers, domestic servitude;*
- *Cultural practices: talibé, confiage.*

Action work analysed for this publication: Senegal I, Senegal II, Guinea, Angola, Swaziland.

for sexual services, domestic work, marriage, cheap labour, organs and child soldiers, among others.

Trafficking in human beings is both an international and a domestic crime. Seventy-seven per cent of the victims assisted by IOM from 2014–2016 were trafficked across borders.³¹ Significantly, UNODC found that almost 77 per cent of identified victims were trafficked within the region of their country of origin.³² Specifically, 83 per cent of identified victims in Central America and the Caribbean were trafficked within that region.³³ The large majority of identified victims from East Asia and the Pacific (70%) were also trafficked within the region.³⁴ In contrast, the majority of identified victims from sub-Saharan Africa (57%) were trafficked transregionally.³⁵ Furthermore, victims from sub-Saharan Africa were the "most diffused outbound regional flow".³⁶ According to UNODC:

Some 69 countries around the world detected or repatriated victims from this region between 2012 and 2014. Victims from Sub-Saharan Africa have been detected in significant numbers within that region, in the Middle East, Europe and East Asia, and also in North America and South Asia.³⁷

31 IOM, *Global trafficking trends in focus: IOM victim of trafficking data 2006–2016* (2017), p. 3. Available from www.iom.int/sites/default/files/our_work/DMM/MAD/A4-Trafficking-External-Brief.pdf.
32 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 44–45.
33 UNODC, *Global Report on Trafficking in Persons 2016*, p. 45.
34 UNODC, *Global Report on Trafficking in Persons 2016*, p. 45.
35 UNODC, *Global Report on Trafficking in Persons 2016*, p. 45.
36 UNODC, *Global Report on Trafficking in Persons 2016*, p. 46.
37 UNODC, *Global Report on Trafficking in Persons 2016*, p. 46.

Gender, age, social and cultural norms

Increasingly, **gender** has been recognized as an important factor related to the forms of trafficking in human beings, as well as a critical element in the provision of services for victims of diverse gender identities. According to UNODC, “79 per cent of all detected trafficking victims are women and children.”³⁸ Given the feminization of poverty as a global phenomenon, women and children constitute the populations most vulnerable to various forms of exploitation, revealing the structural nature of trafficking in human beings globally.³⁹ **Women and girls** constitute the majority of identified victims trafficked for sexual exploitation, sham or forced marriages, begging and domestic servitude.⁴⁰

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) thus requires States parties to take measures to suppress trafficking in human beings, and it is recognized as a form of violence against women under CEDAW General Recommendation No. 19.⁴¹

There has been a marked shift in the gender of the victims assisted by IOM from 2006 to 2016. In 2006, 84 per cent of victims assisted by IOM were female; in 2016 women and girls made up only 43 per cent of assisted victims.⁴² According to UNODC, “[a]lthough most detected victims are still women, children and men now make up larger shares of the total number of victims than they did a decade ago.”⁴³ The rise in identification and awareness of trafficking for the purpose of labour exploitation has revealed a corresponding increase in the numbers of identified male victims.⁴⁴

38 UNODC, *Global Report on Trafficking in Persons 2016*, p. 1.

39 Ndipondjou, Tiague, ACP-EU Migration Action, *Assistance Technique: Évaluation du phénomène de la traite des femmes et des filles par les servitudes domestiques au Sénégal*, TA/042/2016 (hereinafter “Senegal Domestic Servitude TA, TA/042/2016”), p. 8.

40 See, IOM, *Global trafficking trends in focus: IOM victim of trafficking data 2006–2016*, p. 3. See also, UNODC, *Global Report on Trafficking in Persons 2016*, p. 26 (noting that they constituted 37% of the identified victims trafficked for the purpose of forced labour); Senegal Domestic Servitude TA, TA/042/2016, p. 8; Richard, Gabriela, ACP-EU Migration Action, *Baseline Assessment Report: Strengthening Specialized Prosecutor’s Office Investigation, Prosecution and Management of Counter-trafficking Cases in the Dominican Republic*, TA/029/2016, p. 9 (henceforth “BA Dominican Republic, TA/029/2016”); Senegal Mapping TA, TA/027/2016, p. 38.

41 See, Article 6, CEDAW and General Recommendation No. 19, Violence against Women (1992), paras 13–16. Available from www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm, last checked 19 July 2017.

42 IOM, *Global trafficking trends in focus: IOM victim of trafficking data 2006–2016* (2017), p. 3.

43 UNODC, *Global Report on Trafficking in Persons 2016*, p. 6.

44 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 1, 6 (indicating that “79 per cent of all detected trafficking victims are women and children” and noting a rise in male victims trafficked for the purpose of forced labour).

In this regard, increases in the number of identified victims are likely attributable to improvements in identification techniques and not necessarily an increase in the numbers of persons being trafficked.

Attention is also needed to the special needs and situation of **LGBTI** victims, including identifying distinct forms of vulnerability and any specific protection needs, including violence and intimidation based on bias. Sexual orientation should also be considered with respect to shelter and accommodation, and LGBTI issues should be included in trainings provided for anti-trafficking stakeholders.

Children comprise the second largest group of victims globally.⁴⁵ Children have accounted for between 15–30 per cent of the victims assisted by IOM over the past 10 years.⁴⁶ According to the Action’s interventions, child trafficking was found to be especially prominent in Senegal, Guinea, Solomon Islands, Angola and Haiti.⁴⁷ More than one quarter of trafficking victims are children; in Southern Africa and the Caribbean, children constitute the majority of detected victims.⁴⁸ The Convention on the Rights of the Child (CRC) and its Optional Protocol on the sale of children, child prostitution and child pornography supplement the rights and protection set forth in the Trafficking Protocol, providing for the right to be free from economic and sexual exploitation, and requiring States to establish the necessary legislative, administrative, social, educational and protection measures.

The large percentage of child trafficking can be attributed, in part, to the demand for large potential profits in the exploitation of children. Such demand is normalized by cultural practices in some communities, including *talibé* in West Africa and the *restaveks* in Haiti. The statistical correlation between countries with young populations and the

45 UNODC, *Global Report on Trafficking in Persons 2016*, p. 25.

46 IOM, *Global trafficking trends in focus: IOM victim of trafficking data 2006–2016* (2017), p. 3.

47 Reis, Michele, ACP-EU Migration Action, *Avant-projet de Rapport d’évaluation de base: Actions-Clés pour la Lutte contre la Traite de Personnes en Haïti*, TA/049/2016, p. 6 (henceforth “Haiti BA, TA/049/2016”), pp. 5, 13, 14; Harley, Loksan, ACP-EU Migration Action, *Rapport d’évaluation des dispositifs nationaux de lutte contre la traite des personnes et la prise en charge des victimes en Guinée*, TA/036/2016, p. 10 (henceforth “Guinea BA, TA/036/2016”); Harvey, Steve, ACP-EU Migration Action, *Scoping Study on Trafficking in Human Beings in the Solomon Islands*, TA/022/2015, p. 13 (henceforth “Solomon Islands TA, TA/022/2015”, noting the urgent need to address the commercial sexual exploitation of children in Solomon Islands).

48 UNODC, *Global Report on Trafficking in Persons 2016*, p. 11 (stating: “There seems to be a relation between a country’s level of development and the age of detected trafficking victims. In the least developed countries, children often comprise large shares of the detected victims.” Also stating: “Countries in Sub-Saharan Africa detect more boys than girls, which seems to be connected with the large shares of trafficking for forced labour, child soldiers (in conflict areas) and begging reported.” In the Caribbean, “girls make up a large share of the detected victims, which could be related to the fact that trafficking for sexual exploitation is the most frequently detected form there.”).

incidence of child trafficking suggests that the availability, or supply, of children is also a factor, as well as their access, or lack thereof, to education. The absence of solid institutions dedicated to child protection and welfare constitutes another significant factor in children's vulnerability to trafficking in human beings.⁴⁹ Boys constitute the largest percentage (39%) of identified victims of trafficking from Sub-Saharan Africa. The high prevalence of child trafficking in the region occurs primarily in Western and Southern Africa, considering the prevailing forms of trafficking in human beings in the region: forced labour and child soldiers. Of adult victims, more women were identified than men between 2012 and 2014: 27 per cent and 9 per cent, respectively.⁵⁰ Girls make up 46 per cent of identified victims in Central America and the Caribbean, and the region has the second highest level of child trafficking, after sub-Saharan Africa. Of the victims of trafficking in human beings assisted by IOM in the Caribbean and Central America, almost 89 per cent were children. Women (51%) and girls (26%) make up the largest percentage of identified victims in East Asia and the Pacific, and most victims are trafficked for the purpose of sexual exploitation.⁵¹ As described by UNODC:

The high prevalence of females among trafficking victims is connected to the fact that women and girls are not only trafficked for sexual exploitation, but also for forced labour and other purposes. A clear majority of the victims of trafficking for forced labour were females.⁵²

The over-representation of women and children as victims, the increased numbers of men being identified, and corresponding distinctions in the forms of exploitation they may suffer, call for **increased gender-sensitivity** in prevention efforts, law enforcement response and services rendered.

Changing demographics among victim populations has important implications in the provision

AT A GLANCE

Caribbean

- *Intraregional trafficking mainly (Caribbean and Central America);*
- *Majority of identified victims: children (girls);*
- *sexual exploitation, forced labour, begging, illegal adoption;*
- *Vulnerability to natural disasters.*

Action work analysed for this publication: Saint Lucia, Dominican Republic, Haiti, Saint Vincent and the Grenadines, Trinidad and Tobago.

of services, for example, in ensuring the availability of appropriate accommodations for all victims: men, women, children as well as LGBTI persons. A singular focus on one type of victim in several ACP countries has left entire categories of victims without adequate services or accommodation.⁵³ Gender, nationality and ethnicity are also factors to consider in developing criminal justice responses. UNODC has found that:

While traffickers are overwhelmingly male, women comprise a relatively large share of convicted offenders, compared to most other crimes. This share is even higher among traffickers convicted in the victims' home country. Court cases and other qualitative data indicate that women are often used to recruit other women.⁵⁴ For example, women make up 49% of convicted offenders in Central America and the Caribbean. As observed by UNODC, "[t]he prevalence of female offenders may be related to the local nature of the trafficking enterprise. It is often conducted by a few individuals targeting one or two victims".⁵⁵ The percentage of convicted female traffickers also reflects prosecution strategies that often target low-level perpetrators.

AT A GLANCE

Pacific

- *Intraregional trafficking mainly (Pacific and East Asia);*
- *Purpose: sexual exploitation;*
- *Vulnerability to natural disasters.*

Action work analysed for this publication: Vanuatu, Solomon Islands, Papua New Guinea, Samoa.

At the same time, **social and cultural norms**, many of which are gendered, lend themselves to exploitative practices, and thus trafficking in human beings. Culturally accepted practices in targeted ACP countries receiving technical support include (but are not limited to): child begging, *confiage*, *talibé*, early marriage and diverse forms of family violence. Identifying social and cultural norms, and the ways in which they feed into exploitative practices, can provide very useful information for the purposes of prevention programming.

Developed as a form of social solidarity in the attempt to seek a better life for children, *confiage* has become "one of the principle

49 See, UNODC, *Global Report on Trafficking in Persons 2016*, pp. 25, 26; Senegal Domestic Servitude TA, TA/042/2016, p. 8 (noting the ineffectiveness of child protective mechanisms in the face of chronic economic crisis).

50 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 103–104.

51 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 103–104.

52 UNODC, *Global Report on Trafficking in Persons 2016*, p. 104.

53 See, e.g. Haiti BA, TA/049/2016, pp. 8, 10 (noting the absence of services and accommodations for adult victims); Eriksson Baca, Linda, ACP-EU Migration Action, *Baseline Assessment Report: Expert support to Papua New Guinea in Counter Trafficking in Persons*, TA/030/2016, p. 9 (henceforth "Papua New Guinea BA, TA/030/2016", noting the existence of shelters for women trafficking victims only).

54 UNODC, *Global Report on Trafficking in Persons 2016*, p. 7.

55 UNODC, *Global Report on Trafficking in Persons 2016*, p. 92.

causes of domestic servitude among girls” in Senegal.⁵⁶ Utilization of a social norms lens can be helpful in addressing the common difficulty in translating and adapting the internationally determined conceptual frameworks to local realities. A narrow emphasis on utilizing a criminal justice framework misses important opportunities for addressing manifestations of trafficking in human beings that form part of normalized social behaviours.

Other vulnerability factors: humanitarian crises

In emergency settings, the types of exploitation and trafficking in human beings that existed before the outbreak of a crisis are exacerbated by it. At the same time, new, specific, emergency-induced forms of trafficking arise, as crisis affected populations who have lost all forms of support and livelihoods are exposed to higher levels of risk.⁵⁷ In 2015, 60 million individuals were displaced as a result of natural and manmade disasters.⁵⁸

Natural disasters, such as the catastrophic earthquake that occurred in Haiti on 12 January 2010, in which over 220,000 persons were killed and 300,000 injured, also provide opportunities for traffickers given the heightened vulnerabilities that ensue from mass displacement and the inability of the government to efficiently respond.⁵⁹ With 1.5 million displaced persons, and increases in cross-border movement, UNICEF estimated that 25–100 children went missing each day.⁶⁰ In particular, countries in the Pacific and Caribbean are prone to natural disasters, ensuing increased vulnerability of the population.

As IOM has observed:

While emergency responses typically take into account protection issues such as gender-based violence, physical and sexual violence against children, and child labour, trafficking in persons remains

largely invisible within current humanitarian coordination structures and the Inter-Agency Standing Committee (IASC) Cluster System.⁶¹

Two additional initiatives have sought to provide practical guidance in providing protection to migrants in vulnerable situations, such as in situations of conflict or in the event of a natural disaster: The Migrants in Countries in Crisis (MICIC) Initiative⁶² and the Nansen Initiative. The MICIC generated voluntary guidelines and effective practices for States and other stakeholders to follow to protect and assist migrants in particularly vulnerable situations, namely, where they are caught in conflict or natural disasters.⁶³ The Nansen Initiative, a State-led consultative process, resulted in the development of a protection agenda addressing the needs of people displaced due to natural disasters and the effects of climate change.⁶⁴

Forms of exploitation

Common forms of exploitation globally include: sexual exploitation, labour exploitation and forced labour, slavery or similar practices, the removal of organs, forced marriage, forced begging and child soldiers. Trafficking in human beings for the purpose of sexual exploitation remains the most commonly identified, with victims being primarily women and girls.⁶⁵ Most trafficking for the purpose of labour exploitation affects people working at the margins of the formal economy, with irregular employment or migration status. The sectors most frequently documented are agriculture or horticulture, construction, garments and textiles under sweatshop conditions, catering and restaurants, domestic work, entertainment and the sex industry.⁶⁶

Identified victims in West and Central Africa are often trafficked to work in the fishing, mining and agricultural sectors, and for sexual exploitation, forced marriage and begging. Women make up half of convicted offenders in the region.⁶⁷

56 Senegal Domestic Servitude TA, TA/042/2016, p. 17.

57 IOM, *Addressing human trafficking and exploitation in times of crisis: Evidence and recommendations for further action to protect vulnerable and mobile populations* (2015) Available from www.publications.iom.int/system/files/addressing_human_trafficking_dec2015.pdf; IOM; Responding to Human Trafficking and Exploitation in Times of Crisis, 2016. Available from www.micicinitiative.iom.int/sites/default/files/resource_pub/docs/trafficking_issue_brief_final.pdf; L. Lungarotti, S. Craggs, A. Tillinac, *Human trafficking in crises: a neglected protection concern*, ODHPN, October 2015. Available from www.odihpn.org/magazine/human-trafficking-in-crises-a-neglected-protection-concern/.

58 IOM, Migration Governance Framework. Available from www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf

59 See, Haiti BA, TA/049/2016, p. 6.

60 IOM, *Addressing human trafficking and exploitation in times of crisis: Evidence and recommendations for further action to protect vulnerable and mobile populations* (2015), p. 21.

61 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 5.

62 For further information on MICIC, see www.micicinitiative.iom.int/.

63 IOM, *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster*, June 2016, www.micicinitiative.iom.int/guidelines

64 *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (2015). Available from www.nanseninitiative.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-1.pdf

65 UNODC, *Global Report on Trafficking in Persons 2016*, p. 28 (indicating 54% of detected victims from 2012–2014); but see, IOM, *Counter-trafficking: Regional and global statistics at-a-glance (2016)* (noting that 74% of the 7,000 victims assisted by IOM in 2015 were trafficked for forced labour and 17% for purposes of sexual exploitation; 55% were male). Available from www.iom.int/infographics/iom-2015-counter-trafficking-statistics, last checked on 6 August 2017.

66 See, UNODC, *Human Trafficking FAQs*. Available from www.unodc.org/unodc/en/human-trafficking/faqs.html#What_is_the_most_commonly_identified_form_of_trafficking.

67 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 112–114.

According to UNODC, the most frequently detected form of trafficking in human beings in the Caribbean and Central America is for sexual exploitation.⁶⁸ Yet, these regions also had the highest percentage by far of IOM-assisted victims of trafficking for the purpose of forced labour, at almost 87 per cent, with Africa following with almost 33 per cent.⁶⁹ Approximately one third of identified victims from Central America and the Caribbean were trafficked for “other” forms of exploitation, including begging and illegal adoption.⁷⁰

Legal definition of trafficking in human beings

The Trafficking Protocol establishes a legal framework for preventing and combating trafficking, protecting and assisting victims, and for promoting State cooperation towards these ends. Pursuant to the Trafficking Protocol, the legal definition of trafficking in human beings is divided into three elements: the acts, the means and the purpose. The purpose of trafficking in human beings is always exploitation.

Act: the recruitment, transportation, transfer, harbouring or receipt of persons.

Means: 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.

Purpose: exploitation.

Source: Article 3, United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

In the Pacific region, trafficking is primarily committed for the purpose of labour exploitation in fishing and extractive industries, such as logging and mining.⁷¹ Trafficking for the purpose of commercial sexual exploitation also occurs, with victims coming from Asian countries, as well as nationals selling girls, primarily family

68 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 89, 90.

69 IOM, *Counter-trafficking: Regional and global statistics at-a-glance*.

70 UNODC, *Global Report on Trafficking in Persons 2016*, p. 91.

71 UNODC, *Transnational organized crime in the Pacific: A threat assessment* (2016), pp. 36, 37.

members, for sex.⁷² As noted also in other regions, there are also important trends of internal trafficking in the Pacific, often involving the exploitation of children who may be (extended) family members. Typically, a “receiver” will offer to educate and/or help bring up an extended family member or clan acquaintance. On some occasions, this results in the victim being exploited in situations of domestic servitude, begging and/or sexual abuse. Trafficking cases of this nature are hard to detect and usually do not involve organized criminal networks. This type of trafficking is often excused as being within cultural norms or as an informal adoption. However, it is important to note that informal adoptions or other arrangements of this nature are not always harmful and do not always constitute trafficking.

Counter-trafficking in ACP States

The Trafficking Protocol establishes a legal framework for preventing and combating trafficking in human beings, protecting and assisting victims and promoting State cooperation towards these ends. It requires contracting States to bring national legislation into conformity with its standards. Globally, the number of States who have developed anti-trafficking legislation has risen dramatically over the last 13 years.⁷³

The mere criminalization of some form of trafficking in human beings is not enough, however, to effectively combat the crime, nor to ensure the protection of victims. National legal definitions must contain all of the constituent elements of each crime, encompass the widest scope of the forms of exploitation, render the victim’s consent irrelevant when means are present and ensure the non-criminalization of any acts committed in the course of being trafficked. Sanctions should appropriately reflect the gravity of the crimes, including any aggravating circumstances. Legislation should also provide for protection mechanisms, a range of services and a reflection period for victims, as well as access to remedies.⁷⁴ Criminal procedure codes should not unduly constrain the evidence gathering process.

Furthermore, law enforcement and justice sector personnel must be fully trained on the practical application of the law. Limitations in legal frameworks and law enforcement capacity, as well as the lack of victim and witness protection, the absence of financial investigations, corruption, and difficulties in evidence gathering, all contribute to a low number of convictions globally.

72 Pacific Islands Forum Secretariat, *Pacific transnational crime assessment*, (2016), pp. 46, 47.

73 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 1, 12 (indicating the number of countries that have criminalized some form of trafficking increased from 33 in 2003 to 158 in 2016).

74 The BAs and TAs provide very little information on the legislative provisions concerning accessing remedies and victim and witness protection provisions within the framework of legal proceedings. But see, Senegal Mapping TA, TA/027/2016, p. 38 (noting that no legislative provisions exist providing for victim and witness protection).

As UNODC has observed:

The longer countries have had comprehensive legislation in place, the more convictions are recorded, indicating that it takes time and dedicated resources for a national criminal justice system to acquire sufficient expertise to detect, investigate and successfully prosecute cases of trafficking in persons.⁷⁵

Yet, impunity remains rife for trafficking in human beings. According to UNODC, for the 136 countries covered in its *Global Report on Trafficking in Persons 2016*, 40 per cent of them secured less than 10 convictions during the two-year reporting period, and 15 per cent did not obtain a single conviction.⁷⁶ It noted that of those States that did not secure any convictions for trafficking in human beings, most had either not yet adopted anti-trafficking legislation, or had only recently done so. It indicated that “[c]ountries in this category include some island States in the Caribbean, the Pacific and Africa, as well as some countries in Sub-Saharan Africa and North Africa and the Middle East”.⁷⁷

In this regard, ACP State recipients of the Action’s technical assistance remain at various stages of integrating international legal standards into national legislation, and in effectively implementing existing anti-trafficking law and policy. For example, not all ACP State beneficiaries of the Action have become parties to the Trafficking Protocol.⁷⁸

At the same time, legislative reform, capacity-building and awareness-raising among staff in government and civil society organizations are often needed on a range of other policy frameworks related to trafficking in human beings, including: child protection, domestic and other forms of gender-based violence, data protection, asylum, corruption and others. Primary governance issues in many States pose significant challenges to implementing international standards, as the overall system, across the range of sectors, does not function effectively.

Yet, as IOM noted in its Global Compact Thematic Paper *Combating trafficking in persons and contemporary forms of slavery*:

75 UNODC, *Global Report on Trafficking in Persons 2016*, p. 12.

76 UNODC, *Global Report on Trafficking in Persons 2016*, p. 51.

77 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 51, 97 (noting that a third of the countries from Central America and the Caribbean “have still not recorded a single conviction”).

78 Four Pacific States have not yet acceded to the Trafficking Protocol: Papua New Guinea, Vanuatu, Samoa and Solomon Islands. See also Annex 1: Status of signature and ratification of UNTOC and its Trafficking and Smuggling Protocol.

The Palermo Protocol, contrary to earlier human rights oriented instruments, was accompanied by a strong emphasis on criminal justice responses to TIP. While the criminal justice approach has helped drive a legislative change at national level, the eradication of TIP requires a much greater focus on social justice issues, such as discrimination and inequality, labour migration opportunities, and conscientious consumerism.⁷⁹

Coordination and cooperation across national and local organizations is necessary to ensure identification, effective service provision for victims and robust data collection. Crucially, many ACP States lack sufficient data collection methods, and thus have no, or insufficient, information on the forms, modalities and geographical locations of the crime, on the number of prosecutions, convictions and sentencing, disaggregated anonymized data on victims, and the types of assistance provided to them.

Cross-border trafficking in human beings tends to reflect other international mixed migration flows, often rendering the identification of victims difficult.⁸⁰ While victims are often trafficked within national borders, according to UNODC’s *Global Report on Trafficking in Persons 2016*, most identified cases of trafficking in human beings involve crossing national borders.⁸¹ It further observed that: “traffickers in origin countries are usually citizens of these countries. Traffickers in destination countries are either citizens of these countries or have the same citizenship as the victim(s) they trafficked”.⁸² Consequently, most convicted offenders are citizens of the country in which they were convicted.⁸³ While a majority of traffickers operate in their country of origin, the high numbers of domestic convictions of a country’s own nationals may also imply limitations in the capacity to effectively carry out cross-border investigations. Mutual legal assistance, whether bilateral, multilateral, regional or the framework set forth in the UN Convention on Transnational Organized Crime (UNTOC), fosters the tackling of cross-border crimes.

79 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 4.

80 UNODC, *Global Report on Trafficking in Persons 2016*, p. 9.

81 UNODC, *Global Report on Trafficking in Persons 2016*, pp. 19, 37 (indicating 57% for the period 2012–2014).

82 UNODC, *Global Report on Trafficking in Persons 2016*, p. 7.

83 UNODC, *Global Report on Trafficking in Persons 2016*, p. 37 (indicating three quarters of convicted traffickers were nationals of the countries in which they were convicted. “The remaining offenders – foreigners in the country of conviction – were near-equally split between citizens of countries within and outside the region where they were convicted.”).

Overview of migrant smuggling in ACP Regions

Natural disasters, environmental degradation, armed conflict, unemployment, poverty, human rights violations, persecution, political instability and the pursuit of a better life have all created demand for migration that far exceeds the existing possibilities to cross borders legally. Migrants increasingly turn to smugglers to cross borders, and prices for the journey soar. At the same time, smuggled migrants face life-threatening risks at the hands of smugglers. Thousands have drowned at sea, suffocated in containers and trucks and perished in deserts, often as the result of the deliberate actions or the indifference of smugglers.

IOM estimates that between 2000 and 2014, 22,400 people died trying to reach Europe via the Mediterranean.⁸⁴ In 2016, the deadliest year, approximately 8,057 migrants were estimated to have died or gone missing.⁸⁵ IOM furthermore estimates the global migrant death toll as 6,142 for 2017. Irregular migrants from Haiti and the Dominican Republic travel by boats or dinghies, known as “yolas”, across the Mona Passage into Puerto Rico to the United States. Given the poor condition of the boats, this route is often lethal.⁸⁶ Most recorded cases of migrant smuggling in the Pacific also involve large numbers of people traveling by boat.⁸⁷

Modus operandi

Migrant smuggling, like trafficking in human beings, involves low risks of detection and punishment and large profits. Recent research examines migrant smuggling based on a market perspective, that is, the demand for and supply of migrant smuggling. As described by Europol, “[a]n in-depth analysis of several networks reveals that smuggling networks’ operations are based on a crime-as-a-service business model.”⁸⁸ The migrant smuggling market is “flexible, new suppliers can easily join, while the buyers ‘shop around’.”⁸⁹

84 IOM, *Fatal Journeys: tracking life lost during migration* (2014). Available from www.iom.int/files/live/sites/iom/files/pbn/docs/Fatal-Journeys-Tracking-Lives-Lost-during-Migration-2014.pdf, last checked 30 July 2017.

85 IOM, *Missing migrants*. Available from www.missingmigrants.iom.int/, last checked 4 January 2018.

86 IOM, *Migrant Smuggling Data and Research*, p. 276.

87 See, UNODC, *Transnational organized crime in the Pacific: A threat assessment* (2017), p. 40 and

88 Europol, *Migrant Smuggling in the EU*, p. 9.

89 European Commission, DG Migration and Home Affairs, *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries*. Available from www.emn.lv/wp-content/uploads/study_on_smuggling_of_migrants_final_report_master_091115_final_pdf.pdf, last checked 30 July 2017.

Europol indicates that “[m]igrant smugglers and other criminals offer a wide variety of often highly priced services throughout [the migrant] journey. These facilitation services include the provision of transportation, accommodation and fraudulent documents.”⁹⁰

Migrant smugglers operate with **varying levels of organization**, from highly organized groups to loose networks. As described by Europol:

Networks vary in size. Regional and smaller networks operate autonomously and rely on freelancers who act as drivers, recruiters, document falsifiers or organizers. In many cases, these freelancers provide their services to multiple networks at the same time. Larger networks typically operate at an international level and offer full facilitation packages taking migrants from source to destination countries.⁹¹

The smugglers operating in North Africa as a transit centre for migration into Europe operate both in hierarchical organizations and in loosely organized networks. Furthermore, the “dramatic increase in the number of migrants that moved through North Africa in 2014 also led to an increase in more organized, hierarchical, transnational structures.”⁹² According to UNODC: “Migrant smugglers are becoming more and more organized, establishing professional networks that transcend borders and regions.”⁹³

Communications technology “is one of the most important characteristics in the market,” fueled by social media.⁹⁴

As Europol has highlighted:

[Social media] platforms are also used by migrant smugglers and irregular migrants to share information on developments along migration routes, including law enforcement activities, changes in asylum procedures, or unfavourable conditions in countries of destination. This type of information allows other migrant smugglers to adapt to changing conditions.⁹⁵

90 Europol, *Migrant Smuggling in the EU*, p. 5.

91 Europol, *Migrant Smuggling in the EU* (2016), pp. 8–9.

92 IOM, *Migrant Smuggling Data and Research*, p. 88 (also noting that THB in the region is perpetrated by hierarchical transnational organizations).

93 See, UNODC, *Migrant Smuggling*. Available from www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html#SOM_IFA, last checked 1 May 2017.

94 European Commission, *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries* (2015).

95 Europol, *Migrant Smuggling in the EU* (2016), p. 10.

Migrant smugglers can thus employ constantly shifting routes and modus operandi in response to changing circumstances. For example, in response to the reduced pathways of legal migration coupled with Frontex maritime operations, the large majority of irregular migrants from Senegal take the more treacherous land route.⁹⁶

Links with the diaspora community is another key characteristic of migrant smuggling networks. As described by Europol, the networks:

in source or transit countries exploit ethnic and national ties to diaspora communities across the EU. Facilitated irregular migrants often choose particular destination countries where they will find existing communities with which they share national, linguistic and cultural ties. Established diaspora communities in these countries often offer support networks and opportunities for irregular migrants to prolong their irregular stay in the EU. Members of diaspora communities that are part of migrant smuggling networks provide support in arranging accommodation, travel or employment on the black labour market.⁹⁷

Social networks, including family, diaspora communities and social media, can interact with migrant smuggling as an enterprise by:

- Raising funds for migrants wishing to resort to smugglers;
- Playing the role of different “actors” in the business model;
- Providing information on the quality of smuggling options;
- Providing documents, transport, housing, employment;
- Facilitating payment systems to support smuggling;
- Facilitating remittances from migrants to families in their country of origin;
- Facilitating integration in country of destination.⁹⁸

Social networks thus provide “vital information in the preparation of the journey, provide financial and emotional support and assist in insertion and integration processes after arrival”.⁹⁹

Geographical scope

West and Central Africa are major source regions for irregular migration, and thus migrant smuggling. While most irregular migrants from these regions travel overland across the desert primarily to Europe and other African States, international flight travel using false documentation and maritime migration constitute additional transit routes, albeit to a lesser extent. ECOWAS free movement regime is an important

96 Senegal Mapping TA, TA/027/2016, pp. 11, 35, 36.

97 Europol, *Migrant Smuggling in the EU*, p. 10.

98 European Commission, *A study on smuggling of migrants*.

99 European Commission, *A study on smuggling of migrants*.

reality for this region. Even though there are some limits to mobility within the ECOWAS area, the majority of West Africans who are smuggled overland often start their journeys under the provisions for free movement and violate immigration regulations only upon leaving the ECOWAS area.¹⁰⁰ Notably, the external borders of ECOWAS run through sparsely populated, politically unstable terrain with high security risks, facilitating criminal operations and increasing the vulnerability of migrants.¹⁰¹ All of the countries in West and Central Africa except Gabon and Chad have signed the Migrant Smuggling Protocol. As in all (ACP) regions, there is a scarcity of data on migrant smuggling from West and Central Africa, due in large part to the geographical context and the criminal, secretive nature of the enterprise. Addressing smuggling of migrants has been a relatively recent concern in the region.

Migrant smuggling in East Africa originates mainly from the Horn of Africa, inclusive of Djibouti, Eritrea, Ethiopia and Somalia. Outside of the Horn, the establishment of the East Africa Community (EAC) and its free movement zone have led to significant internal migration in the region. For example, Kenyan emigrants’ major destinations in Africa were EAC neighbours Uganda and United Republic of Tanzania. The EAC countries have now, in turn, become major transit hubs for irregular migration and smuggling networks from the Horn of Africa.¹⁰² Southern Africa, and specifically South Africa is (together with Europe and the Middle East) one of the primary destination for migrants coming from the East and Horn of Africa regions.¹⁰³ IOM estimates that 17,000-20,000 migrants are smuggled from the East and Horn of Africa into South Africa annually, in addition to recent migrant flows from South and Southeast Asian countries.

Most of the data on migration, and smuggling from the Caribbean is presented in conjunction with data on Central America. This was identified at the P2P Exchange by participants from the Caribbean as a barrier to effective evidence-based policymaking in the region, as the data on trends in the Caribbean are often distinct from the phenomena in Central America. Indeed, research notes that the migration flows from and within the Caribbean constitute an important element of the larger Latin-American migratory system.¹⁰⁴ The United States is the most important destination for migrants in the whole Latin American region, including for those from the Caribbean. Central America then functions a transit region for Caribbean migrants, who travel by air to cities in the region prior to taking the land route into Mexico and further into the United States. Smuggling research also notes the use of-often dangerous or even

100 IOM, *Migrant Smuggling Data and Research: A global review of the emerging evidence base* (2013), pp. 25, 27. Available from www.publications.iom.int/system/files/smuggling_report.pdf, last checked on 6 August 2017.

101 IOM, *Migrant Smuggling Data and Research*, p. 26.

102 IOM, *Migrant Smuggling Data and Research*, p. 55

103 IOM, *Migrant Smuggling Data and Research*, p. 58

104 IOM, *Migrant Smuggling Data and Research*, p. 269

lethal- boat journeys of Cuban nationals, Haitians and Dominicans into the United States.¹⁰⁵

Also in the case of the Pacific, most of the data collected by intergovernmental organizations is joined with that from East and/or Southeast Asia, obscuring the specificities of information on these phenomena within the region. In general, the Pacific countries are seen as transit countries for migrant smuggling via air into Australia, New Zealand and the United States, with a high percentage of the smuggled migrants being male.¹⁰⁶ Smuggled migrants primarily originate in Asia, with Fiji being a major transit hub, and increasingly Papua New Guinea, and the “smuggling of migrants is predominantly undertaken by air for the Pacific Islands region”.¹⁰⁷ Law enforcement agencies report that migrant smuggling networks have become entrenched in Fiji, Papua New Guinea, Samoa, Tonga and Vanuatu, with locals collaborating with foreign nationals in committing the offence.¹⁰⁸

Counter-smuggling

Despite their consent to being smuggled, migrants frequently become victims of crimes committed during, or as a result of, being smuggled. Smuggled migrants are also extremely vulnerable to being trafficked, and the two crimes frequently overlap. In many cases “irregular migrants are forced to pay for the smuggling services by means of illegal labour.”¹⁰⁹ Smuggled migrants can furthermore also be subjected to other violations, such as extortion, torture and inhumane treatment, rape, forced labour and slavery by smugglers.

As an inherently cross-border crime, migrant smuggling requires cross-border law enforcement cooperation. Where such cooperation is lacking, smugglers capitalize on weak criminal justice responses in forging new routes. International cooperation to combat migrant smuggling, and trafficking in human beings involves information sharing on routes, embarkation and entry points, means of transportation, modus operandi and the forms of both crimes. At its most basic, international cooperation requires mutual commitment, common understanding on response, equal partnerships and trust. International cooperation should not be limited to strengthening national policing efforts in countries of origin, but can adopt a more holistic approach to

105 IOM, *Migrant Smuggling Data and Research*, p. 276

106 Pacific Islands Forum Secretariat, *Pacific Research Project: Promoting human security and minimizing conflict associated with forced migration in the Pacific region* (2015), pp. 15, 16 (noting that 2013 survey data reveals a high percentage of male adults at around 70% of victims or specifically 15,077 individuals; data collected by Australia).

107 Pacific Islands Forum Secretariat, *Pacific transnational crime assessment* (2016), p. 46; Annex A, p. 18.

108 Pacific Islands Forum Secretariat, *Pacific transnational crime assessment* (2016), p. 45.

109 Europol, *Migrant Smuggling in the EU*, p. 5.

encompass support for developing sustainable economic alternatives to migration.

Concerted cooperation between States can involve joint operational activities between law enforcement and judicial authorities in order to dismantle complex, cross-border criminal networks. Joint investigative teams (JITs), formed between North–South and/or South–South partners, can strengthen national policing capacities, including through the support and technical expertise offered by other states/national authorities, international and intergovernmental organizations. Regional platforms for cooperation and information sharing have been used to bring together national taskforces around the world to positive effect. For the ACP regions, these include the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, the Migration Dialogue for Southern Africa (MIDSA), Caribbean Migrant Consultation (CMC) and in Central America, there are the Regional Conference on Migration (RCM) and a Regional Coalition and Trafficking and Smuggling.

Definition of migrant smuggling

Procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

Source: Article 3, United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air.

Harmonized criminal legislation, in conformance with the Migrant Smuggling Protocol, constitutes a prerequisite to effective international cooperation for the purpose of both prosecution and the return of smuggled migrants, setting minimum standards to avoid perpetrators relocating to countries with lenient laws. The Migrant Smuggling Protocol provides the basis not only for harmonized legal definitions of the crime, but also a mutual legal assistance framework that can be used by States Parties as the legal basis for cross-border cooperation for law enforcement.

Pursuant to the Protocol, migrant smuggling laws must contain the financial element of the crime within the definition. It requires States to criminalize both migrant smuggling and enabling a person to remain in a country illegally. It further requires the establishment of aggravating circumstances to encompass acts that endanger lives or safety, or entail the inhuman or degrading treatment of migrants. At the same time, criminal procedure codes should not unduly constrain the evidence gathering process. The Migrant Smuggling Protocol and international best practice call for prosecutorial efforts to be focused on criminal networks of migrant smugglers, not on smuggled migrants.

Although not designating smuggled migrants as victims, the Migrant Smuggling Protocol provides for the protection of the human rights of smuggled migrants.¹¹⁰ It is important to recall in this regard that smuggled migrants are frequently the victims of other, often heinous, crimes. Article 16 requires States to protect smuggled migrants from violence by individuals or groups owing to the fact that they were smuggled, to provide assistance in the event their lives are endangered, and to “take into account the special needs of women and children”.

The Migrant Smuggling Protocol precludes the prosecution of smuggled migrants for having been smuggled. Article 5 states: “Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of [migrant smuggling].” Given that many smuggled migrants fall victim to a range of crimes, including grave human rights abuses, it directs law enforcement actors to focus prosecutions on migrant smugglers operating as criminal organizations, rather than on prosecuting smuggled migrants. Article 4 limits the application of the Protocol to cases in which “the offences are transnational in nature and involve an organized criminal group”.

Migrants entitled to protection as refugees may rely upon smugglers in their attempts to seek asylum. In this regard Article 16(1) underscores “the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment” among other fundamental human rights. As potential refugees, smuggled migrants enjoy the right to *non-refoulement* to any country where their lives and safety might be endangered under the 1951 Refugee Convention and the 1967 Protocol. Any law enforcement response to migrant smuggling must not engage in the automatic deportation of smuggled migrants without screening to determine whether they are refugees, victims of trafficking in human beings or otherwise entitled to international protection.

IOM’s comprehensive approach to combating migrant smuggling encompasses providing direct assistance to smuggled migrants, ensuring the protection of their human rights and building capacity within States. Its work in this field is organized around four pillars: i) providing protection and assistance to smuggled migrants; ii) addressing the causes of migrant smuggling; iii) enhance States’ capacity to disrupt the activities of migrant smugglers; and iv) to promote research and data collection on migrant smuggling.

The recent report by Peter Sutherland, the former Special Representative of the Secretary General on Migration, made several recommendations related to combating human smuggling. These included to improve State cooperation, while recognizing

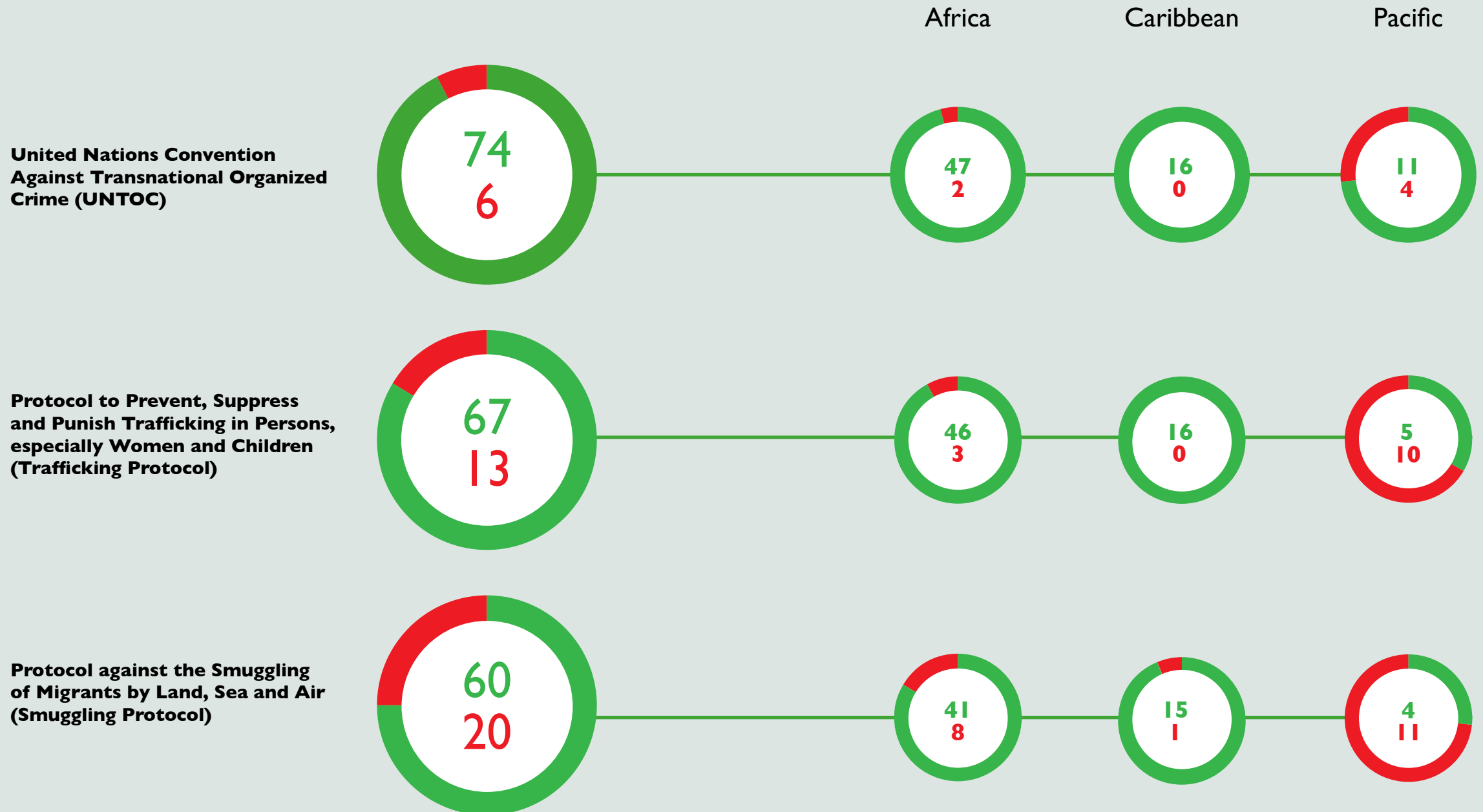
110 Article 16(1), Migrant Smuggling Protocol.

that much unauthorized migration happens either in complicity with State actors or where State capacity is weak; to expand legal pathways to offer alternatives to current dangerous migration routes, undercutting criminal smuggling networks; and to equip migrants with legal identity documents, further reducing the risks of migrants being exploited by criminal smugglers.¹¹¹ The report further proposes a working definition of the term “migrants in vulnerable situations,” and surveys the applicable international legal frameworks and non-binding instruments to identify protection gaps.

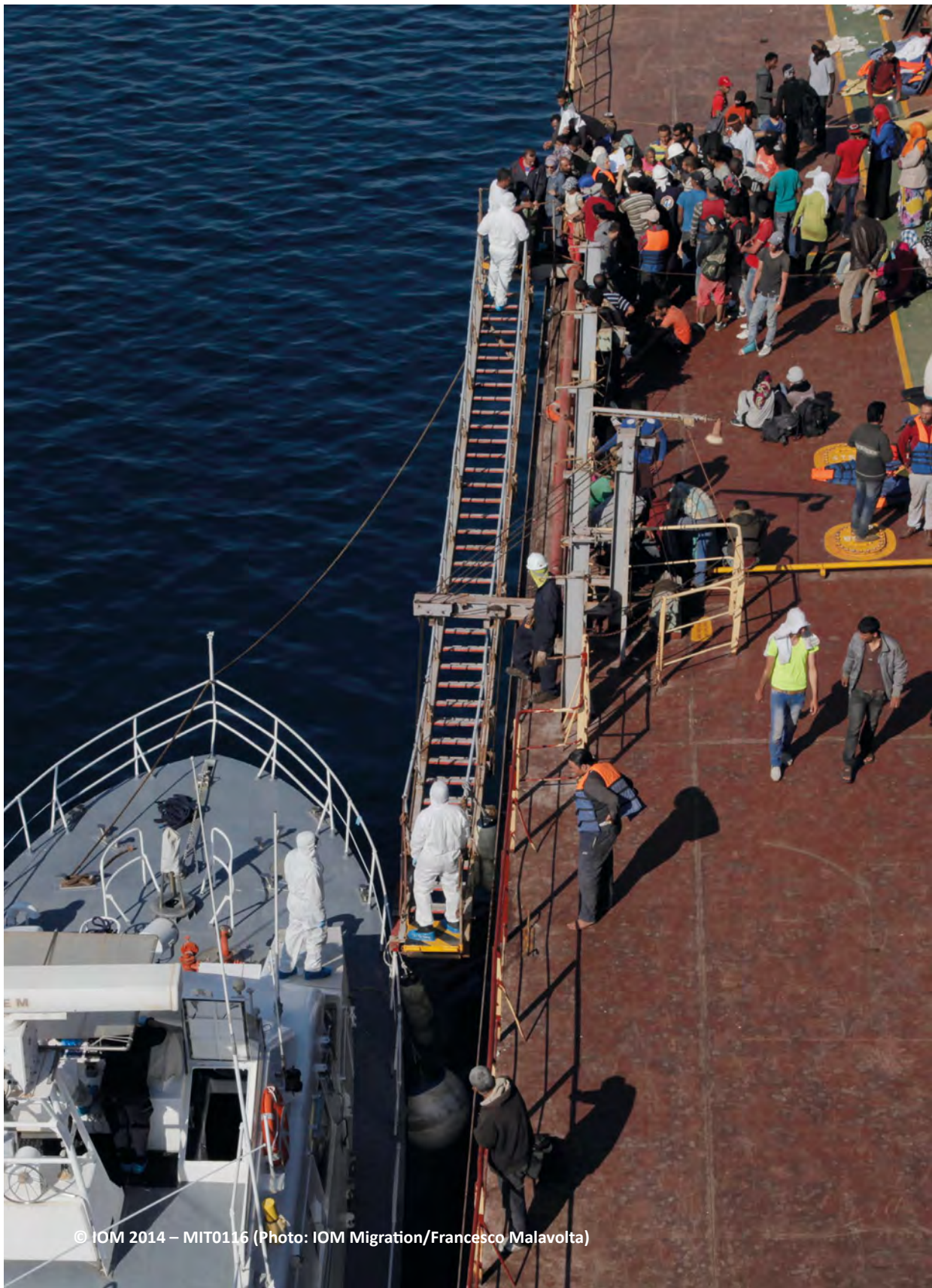
111 Report of the Special Representative of the Secretary General on Migration, A/71/728, 3 February 2017.

‘Status of signature/ratification of UNTOC and its Trafficking and Smuggling Protocols in ACP States’

YES / NO



Source: UNODC



THB and SoM in the EU

Trafficking in Human Beings in the EU

As underlined in the European Agenda on Migration, the European Agenda on Security and other EU policy instruments, the EU remains committed to preventing and combating trafficking in human beings and to protecting victims' rights, taking account, in particular, vulnerabilities of trafficked women and children. In addition, the political commitment to stepping up EU action against trafficking in human beings, within the EU and around the world, is supported by the Global Strategy on the European Union's Foreign and Security Policy (EUGS) and by relevant EU strategies and action plans and European Parliament resolutions. There is also strong support from civil society.

The adoption in 2011 of EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, aimed to strengthen the legislation of EU Member States on this issue. The Directive takes a victim-centred approach and incorporates a gender perspective, covering actions across diverse sectors, such as criminal law provisions, prosecution of offenders, victims' support and victims' rights in criminal proceedings, prevention and monitoring of the implementation.

The Directive was followed in 2012 by the European Commission's adoption of the EU Strategy¹¹² towards the Eradication of Trafficking in Human Beings (2012-2016), the five key priorities of which reflect the ACP-EU Dialogue Recommendations, namely

- Identifying, protecting and assisting victims of trafficking in human beings;
- Stepping up the prevention of trafficking in human beings;
- Increased prosecution of traffickers;
- Enhanced coordination and cooperation among key actors and policy coherence;
- Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

112 EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016). Available from www.eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012DC0286, last checked 30 July 2017.

The EU's first progress report on the fight against trafficking in human beings¹¹³ brings together relevant data on the phenomenon and on the implementation of the Directive. It finds that in 2013-2014, 15,846 women, men, girls and boys were registered as victims of trafficking in the EU, while the actual number of victims is likely to be substantially higher. According to the Report, trafficking for the purpose of sexual exploitation is still the most widespread form (67% of registered victims), followed by trafficking for labour exploitation (21% of registered victims). Over three quarters of the registered victims were women (76%), while at least 15% were children. UNODC reported on an estimated 19,640 victims that were detected in the period 2012-2014, also underscoring that the majority were women and girls trafficked for sexual exploitation. UNODC furthermore reports that Central and South-Eastern Europe are primarily countries of origin for international trafficking in human beings, while Western and Southern Europe are mainly destinations for trafficking in human beings from all regions, although approximately half of the identified victims come from Central and Eastern Europe. Approximately 16 per cent of the victims are from sub-Saharan origin. As in other regions, transregional flows appear to be decreasing, while intraregional flows are growing.¹¹⁴

In its efforts to fully implement the Directive and in view of the evolving socio-political since the adoption of the Directive and the Strategy, in 2017, the EU released a Communication¹¹⁵ proposing a set of targeted priorities to step up the EU's efforts to prevent trafficking in human beings. It focuses on disrupting the business model that trafficking in human beings depends on, improving victims' access to rights, and ensuring that EU internal and external actions provide a coordinated and consistent response.

Migrant smuggling to the EU

Over the last decade, irregular migration to and within Europe has come from the South and the East. Undocumented migrants into Europe have "mostly come from developing countries in Asia and Africa, particularly the Syrian Arab Republic, Pakistan, Afghanistan and Iraq, as well as Senegal, Somalia, Nigeria and Morocco." Irregular migration into Europe typically begins at southern and eastern land and sea borders, such as Greece, Italy, Malta and Spain, and then continues towards western and

northern European countries. Preferred destinations include Germany, Sweden and the United Kingdom.¹¹⁶ It is estimated that over 90 per cent of irregular migrants used facilitation services.¹¹⁷ However, it is noted that data on migrant smuggling in Europe is not complete, remains highly fragmented and is derived mainly from apprehension.¹¹⁸

Current European legislation on migrant smuggling, known as the "facilitators package" includes: Council Directive 2002/90,¹¹⁹ which establishes a common definition of the offence of facilitation of unauthorized entry, transit and residence. It requires Member States to adopt effective, proportionate and dissuasive sanctions for migrant smuggling, excepting where the aim is the provision of humanitarian assistance. Framework Decision 2002/946/JHA¹²⁰ then aims to strengthen the penal framework to prevent the facilitation of unauthorized entry, transit and residence. The Decision foresees the liability of legal entities, and also provides for the imposition of appropriate sanctions, including custodial sentences and confiscation of the means of transport used to commit the offence. Yet, legislative gaps and inconsistencies in the application of legislation across Member States complicates the provision of assistance by humanitarian actors.¹²¹ Yet, legislative gaps and inconsistencies in the application of legislation across Member States complicates the provision of assistance by humanitarian actors.¹²²

The EU adopted the European Action Plan against Migrant Smuggling in 2015.¹²³ The priorities of the Plan are: enhancing police and judicial response, including by stepping up financial investigations, improving gathering and sharing information, enhancing prevention of smuggling and assistance of vulnerable migrants and strengthening cooperation with third countries.

113 Report on the progress made in the fight against human trafficking (2016). Available from www.ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report_on_the_progress_made_in_the_fight_against_trafficking_in_human_beings_2016.pdf

114 UNODC, Global Report on Trafficking in Persons, pp. 72, 75, 77, 78.

115 Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions (2017). Available from www.ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204_communication_reporting_on_follow-up_to_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf

116 IOM, Migrant Smuggling Data and Research, p. 107.

117 Europol, Migrant Smuggling in the EU.

118 IOM, Migrant Smuggling Data and Research, p. 115.

119 Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence (2002). Available from www.eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32002L0090, last checked 30 July 2017.

120 Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, 2011. Available from www.eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0036, last checked 30 July 2017.

121 European Parliament. Fit for purpose? The Facilitation Directive and the criminalization of humanitarian assistance to irregular migrants (2016). Available from: [www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2016\)536490](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2016)536490)

122 European Parliament, Fit for purpose? The Facilitation Directive and the criminalization of humanitarian assistance to irregular migrants.

123 COM (2015) 285.

Also the European Agenda on Migration lists saving lives at sea and tackling criminal smuggling networks as key short-term priorities. Cooperation between enforcement agencies and with non-EU countries, and addressing the root causes of migration, are included as important long-term goals. In 2016, Europe furthermore stepped up its commitment to counter migrant smuggling with the deployment of North Atlantic Treaty (NATO) vessels in the Aegean Sea to help crack down criminal networks.¹²⁴ The European military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) focuses on disrupting the business model of human traffickers and migrant smugglers.¹²⁵ This militarization of the fight against migrant smuggling in Europe reflects “growing fears about the use of the main smuggling paths by Islamic State fighters to enter Western European countries and spread violence.”¹²⁶ These operations have fueled the debate between securitization and human rights.¹²⁷

Overview of current initiatives

International and regional intergovernmental organizations and NGOs have developed numerous tools, platforms and processes to bring affected States together to foster concerted cooperation to combat the crimes of THB and SoM and to protect the human rights of victims. This section briefly summarizes flagship regional and international initiatives on these issues, globally and in the ACP regions.

Global initiatives

The **Global Compact for Safe, Orderly and Regular Migration (GCM)** builds upon the New York Declaration for Refugees and Migrants,¹²⁸ adopted by 193 UN Member States on 19 September 2016. To be adopted in 2018, the Global Compact is guided by the SDGs and aims to address all aspects of international migration, including humanitarian assistance, development and human rights, as well as to contribute to enhanced global governance and international cooperation through a comprehensive framework for coordination. It establishes a range of actionable commitments and a framework for follow-up and review.¹²⁹ In the suggested preliminary content of the Global Compact the following element is included: “combating trafficking in persons, smuggling of migrants and contemporary forms of slavery”.

Replacing the Millennium Development Goals (MDGs), the UN adopted 17 **Sustainable Development Goals (SDGs)** with 169 associated targets in 2015 as the new measurable framework for development to be achieved by 2030. Several SDGs address trafficking in human beings directly and indirectly.

124 IOM, *Migrant Smuggling Data and Research*, p. 106

125 Council Decision 2017/1385 amending Decision 2015/778 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) (2017). Available from: www.eeas.europa.eu/sites/eeas/files/eu_council_decision_1385_17_op_sophia_extension_until_31_12_2018.pdf

126 IOM, *Migrant Smuggling Data and Research*, p. 126

127 IOM, *Migrant Smuggling Data and Research*, p. 127

128 The New York Declaration for Refugees and Migrants recognizes that UN Member States should, “with full respect for our obligations under international law, vigorously combat human trafficking and migrant smuggling with a view to their elimination.” United Nations General Assembly, *New York Declaration for Refugee and Migrants*, A/RES/71/1, New York, 2016.

129 See, IOM, *Global Compact for Migration*. Available from www.iom.int/global-compact-migration



SDG 10, on reduced inequalities, and more specifically Target 10.7, calls to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”¹³⁰ hence broadly encompassing counter-trafficking and counter-smuggling.



SDG 5, on gender equality, also explicitly addresses trafficking in human beings.¹³¹ Target 5.2 calls for the elimination of “all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.” Indicators for Target 5.2 measure intimate partner violence, and the incidence of sexual violence. Target 5.1 on eliminating discrimination against women and girls; Target 5.2 on eliminating harmful practices, such as “child, early and forced marriage”; and Target 5.3, which calls for the recognition and value of “unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate” address the underlying social norms and the normalization of forms of abuse that contribute to trafficking in human beings.



SDG 8, on decent work and economic growth,¹³² includes Target 8.7, which calls for “immediate and effective measures to eradicate forced labour, end modern slavery and trafficking in human beings and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.” Its sole indicator, Indicator 8.7.1, measures the “proportion and number of children aged 5-17 years engaged in child labour, by sex and age”.

130 See generally, UN Department of Economic and Social Affairs, Sustainable Development Goal 10: Reduced Inequality within and among countries. available at: www.sustainabledevelopment.un.org/sdg8, last checked 28 June 2017.

131 See generally, UN Department of Economic and Social Affairs, *Sustainable Development Goal 5: Achieve gender equality and empower all women and girls*. Available from www.sustainabledevelopment.un.org/sdg5, last checked 28 June 2017 The European Union (EU) and the United Nations (UN) have set up the Spotlight Initiative to eliminate all violence against women and girls, as to achieve SDG 5. Trafficking in human beings one of the Initiative's key priorities.

132 See generally, UN Department of Economic and Social Affairs, *Sustainable Development Goal 8: Promote Sustained, Inclusive and sustainable economic growth, full and productive employment and decent work for all*. Available from www.sustainabledevelopment.un.org/sdg8, last checked 28 June 2017. Under SDG 8, Alliance 8.7 was established as a global partnership- going well beyond the UN system- that aims to assist all UN Member States to fulfill their commitment to achieve UN SDG 8.



SDG 16 calls for peace, justice and accountable institutions.¹³³ Target 16.2 calls for the end of “abuse, exploitation, trafficking and all forms of violence against and torture of children”. This target is to be measured by three indicators. Indicator 16.2.2, directly addressing human trafficking, will measure the “number of victims of human trafficking per 100,000 population, by sex, age and form of exploitation”.

The **Inter-Agency Coordination Group against Trafficking in Persons (ICAT)** is a policy forum mandated by the UN General Assembly to improve coordination among UN agencies and other relevant international organizations to facilitate a holistic and comprehensive approach to preventing and combating trafficking in human beings. ICAT was formally established in March 2007, pursuant to the United Nations General Assembly Resolution 61/180. ICAT consists of 16 UN members and two Partner organizations, ICMPD and the OSCE. The members of the ICAT Working Group are ILO, IOM, OHCHR, UNICEF, UNHCR, and UNODC. The Working Group, currently chaired by OHCHR, engages in coordination and develops papers and briefs on specific issues, such as: evaluating anti-trafficking responses, access to remedies for victims, addressing demand and counter-trafficking in crisis situations, among other topics. The ICAT platform has fostered trust building, and the development of ties and synergies between UN entities.

The **Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (GLO.ACT)** is a four-year (2015–2019) joint initiative by the EU and the UNODC, implemented in partnership with IOM and UNICEF. The programme forms part of a joint response to trafficking in human beings and migrant smuggling, and is expected to be delivered in up to 13 strategically selected countries across Africa, Asia, Eastern Europe and Latin America. The programme aims to assist the selected countries in developing and implementing comprehensive national counter-trafficking and counter-smuggling responses within a dual prevention and protection approach, focusing on providing assistance to governmental authorities, civil society organizations and victims of trafficking and smuggled migrants.

Regional initiatives

The **ACP-EU Migration Action** is an initiative of the African Caribbean and Pacific Group of States Secretariat and the European Union (EU), implemented by the International Organization for Migration (IOM), with the aim to support the ACP-EU Dialogue on Migration and Development (Dialogue). The Action provides demand-driven technical

133 See generally, UN Department of Economic and Social Affairs, *Sustainable Development Goal 16: Promote Peaceful and inclusive societies for sustainable development, provide access to justice for all, and build accountable, and inclusive institutions at all levels*. Available from www.sustainabledevelopment.un.org/sdg16, last checked 28 June 2017.

assistance to support the recommendations issued by the Dialogue, including on: visas and remittances, trafficking in human beings and migrant smuggling. The Action works in 80 countries across three continents.

The **EU Emergency Trust Fund for Africa** was established in 2015 to address the root causes of instability, forced displacement and irregular migration and to contribute to better migration management. Worth over EUR 3.2 billion, it primarily supports economic development, with a focus on young people and women in local communities. Migration management to prevent irregular migration and fight human trafficking and migrant smuggling constitutes another focus of support efforts, along with fostering stability and governance by promoting conflict prevention and the rule of law. The Trust Fund benefits a wide range of African countries that encompass the major migration routes, and thus among the most fragile and effected by the migration crisis. The EU Trust Fund for Africa aims to complement existing EU instruments, national and regional frameworks, as well as bilateral programs of EU Member States.¹³⁴

The **Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime**¹³⁵ is a regional forum for policy dialogue, information sharing and practical cooperation to help the region address the challenges related to combating trafficking in human beings and migrant smuggling. The Bali Process Strategy for Cooperation contains a programme of activities, guiding the work of the Bali Process in implementing priorities directed by Ministers. Co-chaired by Indonesia and Australia, it has more than 48 members, including States receiving the Action's support on these issues in the Pacific: Vanuatu, Papua New Guinea, Samoa and Solomon Islands. Its membership also includes UNHCR, IOM and UNODC, as well as a number of observer countries and international agencies. A Regional Support Office (RSO) was established to support and strengthen practical cooperation on refugee protection and international migration, including trafficking in human beings and migrant smuggling, and other components of migration management in the region.

At the Sixth Bali Process Ministerial Conference in 2016, Ministers confirmed the core objectives and priorities of the Bali Process by endorsing the Bali Process Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime. The Declaration acknowledges the growing scale and complexity of irregular migration challenges both within and outside the Asia Pacific region and supports measures that would contribute to comprehensive, long-term strategies addressing these crimes by expanding safe, legal and affordable migration pathways.

134 European Commission, EU Emergency Trust Fund for Africa. Available from www.ec.europa.eu/europeaid/eu-emergency-trust-fund-africa-factsheet_en

135 For more information, see, The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Available from www.baliprocess.net/, last checked 4 June 2017.

The **Migration Dialogue for Southern Africa (MIDSA)** was established in 2000, with the overall objective of facilitating dialogue and cooperation among governments in the Southern African region, and contributing to regional migration management. MIDSA has created a platform for migration to be discussed in an informal setting – identifying, shaping and working towards the achievement of shared goals. MIDSA further raises awareness on challenges and best practices, and has put different aspects of migration management on the agenda, including but not limited to migration and health, trafficking in human beings, border management, and facilitated movement of persons in light of regional economic integration and trade liberalization.

The **Regional Conference on Migration (RCM)**, or **Puebla Process**, is comprised of 11 countries from the Americas and was established in February 1996 as a result of the Tuxtla II Presidential Summit. The RCM is a multilateral mechanism for exchange of information and best practices as well as regional dialogue and cooperation on policies and actions relating to migration that are implemented in the 11 Member Countries: Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States. Likewise, the RCM includes 5 additional countries with observer status – Argentina, Colombia, Ecuador, Jamaica and Peru – and 11 regional or international organizations with observer status.

The Vice-Ministerial Meeting is the executive decision-making body of the RCM, which takes place in the second half of each year. The issues of migrant smuggling and trafficking in human beings has been a fundamental topic for the RCM since its inception. Considering the significance and complexity of this issue the Liaison Officer Network to Combat Migrant Smuggling and Trafficking was established at the VI Meeting of the RCM, held in San José, Costa Rica in 2001, with the aim of strengthening regional coordination on this matter. Furthermore, during the XVI RCM, the Vice-Ministers decided to integrate the National Coalitions against Trafficking in Persons into the RCM through the Regional Coalition against Trafficking in Persons. In addition, numerous awareness-raising, training and coordination actions on this topic have been carried out.

The **Migration Dialogue for West Africa (MIDWA)** was designed to encourage ECOWAS Member States to discuss common migration issues and concerns in a regional context for which immediate solutions may not be forthcoming on a national level. It focuses on a comprehensive array of issues, including: border management, data collection, labour migration, irregular migration, development, remittances, migrants' rights, trafficking in human beings and migrant smuggling and return and reintegration. It encompasses 15 Member States, including Guinea and Senegal. International organizations with observer status include IOM, ECOWAS, OAU and UNODC, among many others.¹³⁶

136 See, MIDWA. Available from www.iom.int/midwa.

The **International Agenda for Migration Management (IAMM)**, a key outcome of the **Berne Initiative Process**, was launched by Switzerland in 2001 and was designed to assist governments in developing effective measures for the management of migration. It offered a non-binding yet comprehensive set of common understandings and effective practices, and a reference system for dialogue, cooperation and capacity-building at the national, regional and global level, developed in a process of comprehensive consultations among States and other stakeholders from all regions. The IAMM set forth a range of recommendations to combat human smuggling that in many ways mirror those underpinning the New York Declaration. They included: involving all relevant stakeholders, adopting effective national legislation, strengthening cooperation and mutual assistance between law enforcement authorities, strengthening efforts to raise awareness, improving data collection and the knowledge base, and providing capacity-building where necessary.

The **Caribbean Migration Consultations (CMC)** was established in 2016 with the aim of creating a non-binding forum to foster open discussions on issues pertaining to migration among member States, to develop consistent, coordinated migration management in the region, to coordinate information exchange and the sharing of good practices and to develop policies with a rights-based approach. Its current focus areas include: border management, data sharing, migrant smuggling and trafficking in human beings. No Secretariat has yet been established, and although no rules have yet been established to determine the presidency or observership, Trinidad and Tobago hosted the last meeting, and IOM and UNHCR serve as observer organizations.¹³⁷

The objective of the **Regional Mixed Migration Secretariat (RMMS)** is to support organizations and forums in the Horn of Africa and Yemen subregion to improve protection and assistance response for mixed migration flows within and beyond the Horn of Africa and across the Gulf of Aden or Red Sea in Yemen. Its work is based on four pillars: information and data management; synthesis, analysis and research; support to policy development and dialogue; support and coordination. Since its inception in 2011, RMMS has developed a strong reputation for collating, analysing and disseminating mixed migration data in the region, including through innovative social media and online platforms. By doing so, it addresses a clear knowledge gap and presents a regional perspective for stakeholders who may not have the capacity to carry out the research, data collection or monitoring themselves. RMMS has created a culture of information sharing among stakeholders. RMMS has set up an office in West Africa and plans to expand to other regions.

Although RMMS was initially established with a primary concentration on protection aspects on the so-called “eastern route” (mixed migration flows from Somalia and Ethiopia and through Somalia, Ethiopia and Djibouti to Yemen and Saudi Arabia), it currently collects data, conducts research and provides analysis on other flows as well, in particular the “western flow” from the Horn of Africa towards Libya and crossing the Mediterranean into Europe and the “southern flow” through Kenya and Tanzania to the Republic of South Africa and beyond. In this regard the RMMS does not limit itself to the Horn of Africa region in terms of policy development and analysis.

The **EU-Horn of Africa Migration Route Initiative (Khartoum Process)**, established in 2014, aims to establish a continuous dialogue for enhanced cooperation on migration and mobility, while identifying and implementing concrete projects to address trafficking in human beings and the smuggling of migrants and thus giving new impetus to the regional collaboration between countries of origin, transit and destination regarding the route between the Horn of Africa and the European Union (EU). The Khartoum Process is a high level, inter-continental political process that harmonizes existing African Union (AU) and EU-led components.

The **Euro-African Dialogue on Migration and Development (Rabat Process)** brings together European and African countries from North, West and Central Africa, as well as the European Commission (EC) and the Economic Community of West African States (ECOWAS), with a view to tackling questions arising from migration issues. The Rabat Process provides a framework for consultation and coordination; contributes to meeting the challenges posed by migration; and encourages opportunities for exchange and development. Irregular migration, and migration & development were recognized as the two priority areas under the Rome declaration and action plan 2015-2017.

AU efforts against trafficking in human beings and smuggling of migrants are guided by the African Union Migration Policy Framework for Africa, the Ouagadougou Action Plan, and the AU Commission Initiative against Trafficking. With respect to the EU, the Global Approach to Migration and Mobility (GAMM) published in 2011 provided for the possibility of establishing a regional dialogue and cooperation process in the Horn of Africa/East Africa. The Commission’s approach to trafficking begins from a gender and human rights perspective and focuses on prevention, prosecution of criminals and protection of victims, as reflected in the Directive on Trafficking in Human Beings and the EU Strategy towards the Eradication of Trafficking in Human Beings.

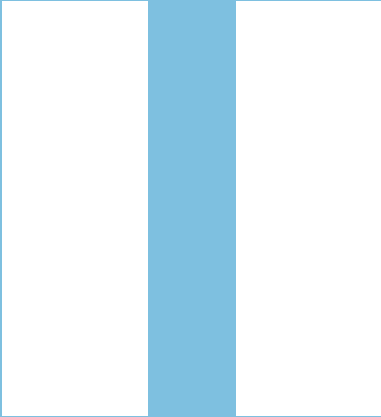
137 See, IOM, Caribbean Migration Consultations. Available from www.iom.int/caribbean-migration-consultations-cmc

MHub was established in Cairo, Egypt by the **North Africa Mixed Migration Task Force (NAMMTF)** to serve as a knowledge management, research, information collection, analysis and dissemination hub and secretariat to the Task Force. The NAMMTF is currently made up of the IOM, OHCHR, UNHCR, UNICEF, UNODC, DRC, RMMS and Save the Children's Regional Office for the Middle East and Eurasia. It promotes a human rights-based approach to ensuring the protection of people moving in mixed and complex flows to, through and from North Africa. MHub produces knowledge on the human rights protection issues faced by people on the move in North Africa for use by policymakers, agencies, donors, the public and academia, with a view to inform advocacy, policy and programme development. It fosters collaborative approaches among key stakeholders and serves as the Secretariat of the North Africa Mixed Migration Task Force.¹³⁸

IGAD-RCP aims to promote the common position of the IGAD (Intergovernmental Authority on Development) Member States and African Union as provided in the AU's Migration Policy Framework. Furthermore, it aims to facilitate regional dialogue and cooperation in migration management amongst IGAD Member States by: fostering greater understanding and policy coherence in migration, strengthening regional institutional and technical capacities to implement the Migration Policy Framework for Africa, the African Common Position on Migration and Development, the Joint Africa-EU Declaration on Migration and Development and other AU and IGAD policies on migration; and improving inter-State and intraregional cooperation on migration management among countries of origin, transit and destination. Irregular migration, trafficking and smuggling and border management are among the current priority areas, in view of formulating and harmonizing legislation, policies and practices at the national and IGAD level.

The main objective of the **COMESA MIDCOM** is to provide a platform for informal and non-binding dialogue on issues and opportunities related to migration management thereby improving the capacity of the governments to better manage migration, network building through regular meetings, including substantial progress towards harmonized data collection systems and harmonized immigration policy and legislation. Irregular migration is one of the current focus areas.

138 www.mixedmigrationhub.org.



Key issues facing ACP States in combating trafficking in human beings and migrant smuggling



A. Legal and policy framework

Efforts to combat and prevent trafficking in human beings and migrant smuggling should take into account international standards on this topics, and involve multiple sectors and numerous stakeholders, both horizontally across agencies and disciplines (law enforcement, healthcare, social services, etc.), as well as vertically at diverse levels (international, national, regional and local). IOM's Migration Governance Framework (MiGOF), sets forth three principles for safe, orderly and regular migration: adherence to international standards and rights, a whole-of-government approach to policymaking and cooperative engagement with partners to address migration and related issues.¹³⁹

AI. International standards for anti-trafficking and anti-smuggling legislation

Establishing comprehensive national legal and policy frameworks constitutes the most basic prerequisite for effectively combating trafficking in human beings and migrant smuggling. The Trafficking and Migrant Smuggling Protocols set forth international standards pertaining to both crimes, respectively, with which State signatories are expected to align their national laws and policies.

The legal models established by the Protocols are comprehensive, entailing definitions of the crimes, protective measures and access to services for victims, and foreseeing international cooperation, recognizing that both crimes can only be addressed through a holistic and coordinated approach. **National legal definitions** must contain all of the constituent elements of each crime and sanctions should appropriately reflect the gravity of the crimes, including any aggravating circumstances. National legislation should also provide for victims' access to remedies.¹⁴⁰

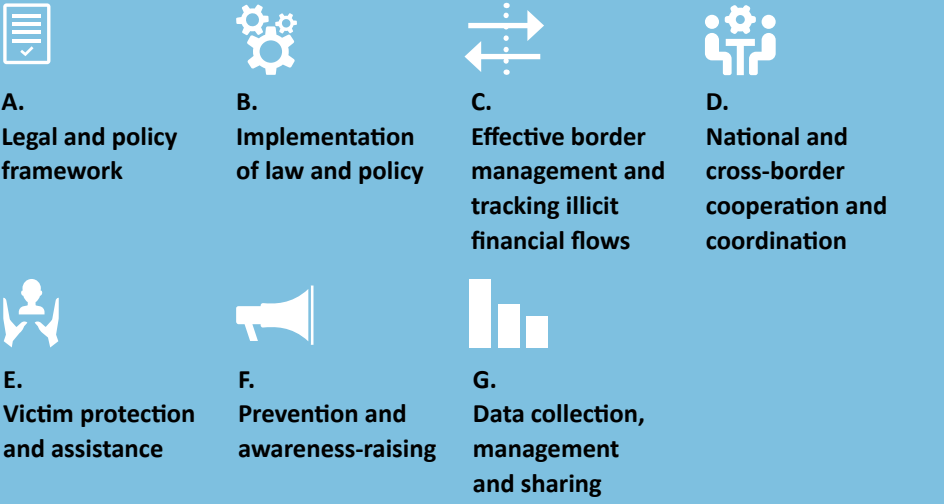
139 IOM, Migration Governance Framework. Available from www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf

140 Virtually no data was provided in the BAs and TA on the legislative framework pertaining to victims' access to remedies.

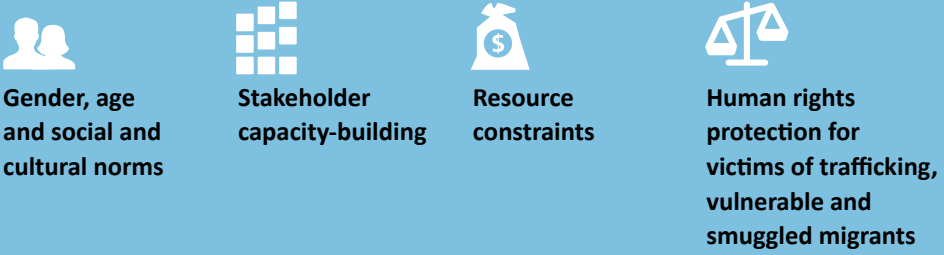
This section describes the current situation in ACP countries in receipt of the Action's technical assistance. It identifies the key obstacles to achieving the recommendations of the ACP-EU Dialogue in ACP countries, as well as good practices for potential replication. The information provided in this section is drawn from:

- The P2P Exchange meeting on Trafficking in Human Beings and Migrant Smuggling (Georgetown, Guyana, March 2017);
- The Seminar on Trafficking in Human Beings and Smuggling of Migrants of the ACP-EU Dialogue on Migration and Development (Brussels, Belgium, November 2016);
- Baseline Assessments on trafficking in persons and migrant smuggling which have been carried out by the Action to date;
- Technical Assistance interventions which have been carried out by the Action to date;
- Additional reports and studies, where relevant.

The above is analysed below in seven broad categories, which reflect the ACP-EU Dialogue recommendations:

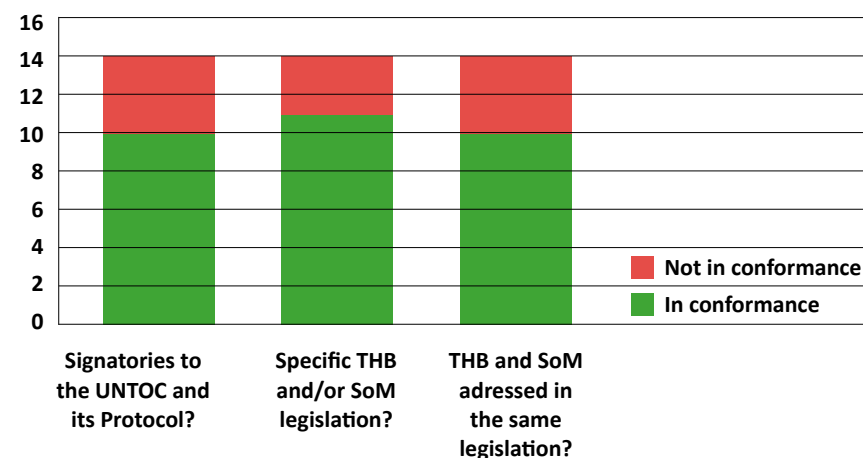


Cross-cutting categories include:





THB/SoM legislation in examined ACP countries



For trafficking in human beings, legislation should encompass the widest scope of the forms of exploitation, including: forced labour and sexual exploitation, but also trafficking for the removal of organs and tissues, trafficking for the purpose of illegal adoptions and the commercial sexual exploitation of children, among others. In line with the Trafficking Protocol, anti-trafficking laws should explicitly render the victim's consent irrelevant when means are present and ensure the non-criminalization of victims for any illegal acts committed in the course of being trafficked.

Migrant smuggling laws must include the financial element of the crime in the definition, and target organized networks rather than individuals. Article 5 of the Migrant Smuggling Protocol states that "migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object" of migrant smuggling. Although it has been recommended that international migrants should in principle not be criminalized for their irregular status, many countries continue to criminalize conduct such as possession of fraudulent travel documents or illegal entry.¹⁴¹ As irregular migrants, victims of trafficking (VOTs) should not be summarily deported but rather assisted (see further Section E).

141 See, IOM, Global Compact Thematic Paper, *Combating migrant smuggling* (2017), pp. 2–3, citing the 2010 Global Forum on Migration and Development (GFMD), the Office of the United Nations High Commissioner for Human Rights and the Global Migration Group issued a joint statement expressing concern about the human rights of migrants in irregular situations and called for an end to their criminalization (United Nations, 2012). See also United Nations, *International Migration Policies: Government Views and Priorities* (New York, 2014).

GOOD PRACTICE

As highlighted at the ACP-EU Dialogue Seminar (2016), national legislative frameworks and their implementation can be significantly strengthened by focusing on certain key provisions. These include:

Trafficking in human beings

- *The consent of the victim to exploitation (intended or actual) shall be irrelevant when the means are present;*
- *Inclusion of multiple forms of exploitation that constitute THB and their threshold;*
- *The non-criminalization and non-punishment of victims;*
- *Abuse of a position of vulnerability as a means of trafficking in human beings;*
- *The focus on victim protection, pre-, during and post-trial.*

Migrant smuggling

- *The definition of the crime includes the financial element (to avoid prosecution of humanitarian facilitation of movement);*
- *The focus on organized networks, rather than individuals;*
- *The links between THB and SoM, especially in large-scale migration movements;*
- *Proactive measures for vulnerable migrants.*

Smuggled migrants should be first screened to determine, for example, if they need International Protection according to the Refugee Convention 1951 and the 1967 Protocol. Furthermore, criminal procedure codes should not unduly constrain the evidence gathering process, including on illicit financial flows.

The absence of comprehensive national legislation in line with the Protocols can seriously compromise criminal prosecutions. For example, the failure to provide protection and assistance to victims, including protection from prosecution for crimes forced to commit, frequently exacerbates reluctance to cooperate with law enforcement, impeding the collection of evidence to the further detriment of legal proceedings.

ACP State recipients of the Action's technical assistance are at diverse stages of adopting a national legal framework in line with international standards; many remain at an early stage of development. Four of the examined ACP States, specifically those



in the Pacific region, have yet to accede to UNTOC and/or its Protocols on trafficking in human beings and migrant smuggling: Solomon Islands, Samoa, Papua New Guinea and Vanuatu.¹⁴²

Other ACP States lack THB- and/or SoM-specific legislation: Saint Vincent and the Grenadines has enacted both THB and SoM legislation.¹⁴³ Trinidad and Tobago has enacted THB but not SoM legislation.¹⁴⁴

Angola has not enacted THB or SoM legislation.¹⁴⁵ Others have not brought their legislation into conformance with international standards: Samoa, Vanuatu, Solomon Islands and Swaziland.¹⁴⁶ On a positive note, several States, such as Guinea, Senegal and Saint Lucia, have ratified UNTOC and the Protocols, and have brought their criminal legislation into conformance with international standards.¹⁴⁷

There was significant debate among participants at the P2P Exchange in Guyana (2017) concerning whether it was advisable to establish **separate legislation for trafficking in human beings and migrant smuggling**. Several countries have criminalized both trafficking in human beings and migrant smuggling within the same law, including:

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- 142 Papua New Guinea BA, TA/030/2016, p. 9. Papua New Guinea has revised anti-trafficking legislation to bring it into conformance with the Trafficking Protocol, but has not yet signed UNTOC; Vanuatu BA, TA/018/2015, p. 5. Although it has acceded to UNTOC, Vanuatu has not acceded to the Protocols. However, there is no official evidence of THB or SoM in Vanuatu, although the incidence of both crimes is “highly likely” based on anecdotal evidence. See, Vanuatu TA, TA/018/2015; Solomon Islands BA, TA/022/2015; Samoa BA, TA/048/2016.
- 143 Saint Vincent and the Grenadines BA, TA/033/2016, p. 10 (noting the absence of legislation criminalizing migrant smuggling).
- 144 Vanuatu BA, TA/018/2015; Waldropt-Bonair, Leigh-Ann, ACP-EU Migration Action, *Baseline Assessment in the field of Capacity-building and National Policy to combat Migrant Smuggling* (Trinidad and Tobago), TA/046/2016, pp. 5, 11 (henceforth “Trinidad and Tobago BA, TA/046/2016”). Trinidad and Tobago has not yet criminalized SoM, nor developed national policy on SoM or immigration more generally.
- 145 Rodrigues, Cristina, ACP-EU Migration Action, *Baseline Assessment: Revision of the existing agreements and development of recommendations to draft a new national policy* (Angola), TA/041/2016, p. 5 (henceforth “Angola BA, TA/041/2016”). Angola lacks specific anti-trafficking legislation.
- 146 Samoa BA, TA/048/2016, pp. 5, 8, 15 (noting the absence of any legal provision allowing for the stay or re-entry of trafficking victims or smuggled migrants); Solomon Islands BA, TA/022/2015; Vanuatu TA, TA/018/2015, p. 9 (noting that the law lacks a clear definition of THB, and that it covers only cross-border trafficking); Swaziland BA, TA/047/2016, pp. 5, 14, 15, 27. The law in Swaziland is not fully in compliance with the Migrant Smuggling Protocol, although it has ratified UNTOC and both Protocols.
- 147 See, Guinea BA, TA/036/2016, pp. 14–16; Vanuatu TA, TA/018/2015, pp. 9, 10; Senegal Domestic Servitude BA, TA/042/2016, p. 6; Waldropt-Bonair, Leigh-Ann, ACP-EU Migration Action, *Baseline Assessment Report: Baseline Assessment in the field of Capacity-building and Public Awareness on Counter-Trafficking* (Saint Lucia), TA/040/2016, p. 6 (henceforth “Saint Lucia BA, TA/040/2016”); Haiti BA, TA/049/2016, p. 5; Senegal Mapping BA, TA/027/2016, p. 18 (noting that the definitions of the crimes do not reflect the Protocols and generate confusion).



the Dominican Republic, Senegal, Solomon Islands and Swaziland.¹⁴⁸ ACP States that currently have both crimes detailed in one piece of legislation have identified this as a source of confusion among stakeholders’ abilities to clearly distinguish between the two crimes. For example, Swaziland stakeholders remain confused on the difference between THB and SoM because a provision on migrant smuggling involves exploitation. This has led to SoM being addressed within “a TiP-focused framework”, and suspected perpetrators being charged with both crimes.¹⁴⁹

In Vanuatu, THB and SoM are criminalized in the Counter Terrorism and Transnational Organized Crime Act, hence linking them both conceptually to border crossing. As such internal trafficking in human beings is not being criminalized.¹⁵⁰

Recommendations

International standards for anti-trafficking and anti-smuggling legislation

- Ratify Migrant Smuggling and Trafficking Protocols and the UNTOC;
- THB and SoM legislation must be integrated into national legal frameworks;
- Criminalize THB and SoM in line with Protocol definitions and enact comprehensive legislation to ensure the full scope of protection and assistance to victims;
- Criminalize THB and SoM in separate pieces of legislation;
- Decriminalize the resort to smugglers by migrants in line with Article 5 of the Protocol;
- Focus prosecutions on migrant smugglers and not smuggled migrants.

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- 148 Dominican Republic BA, TA/029/2016, p. 10 (citing Ley 137-03 sobre Tráfico Ilícito de Migrantes y Trata de Personas (2004), and noting gaps with respect to victim protection and assistance); Swaziland BA, TA/047/2016, p. 5 (citing People Trafficking and People Smuggling (Prohibition) Act 2009); Senegal Mapping BA, TA/027/2016, p. 6; Solomon Islands TA, TA/022/2015, p. 21.
- 149 Swaziland BA, TA/047/2016, pp. 5, 14, 15, 27 (noting that the law is undergoing amendment).
- 150 Vanuatu TA, TA/018/2015, pp. 9, 23 (noting that internal trafficking in human beings is not being identified because the law does not prohibit it and because THB is understood by law enforcement as conceptually linked to border crossing).



A2. National Strategies and Action Plans

National policies to address the crimes of THB and SoM, such as **specialized national strategies, action plans and referral mechanisms**, provide the necessary framework for inter-agency cooperation and coordination at national and other levels. In some countries they have been replicated at the subnational level. Effective national policy documents and the creation of national focal points can ensure the delegation of tasks and competencies, the active involvement of civil society and ideally migrants and trafficking survivors themselves, and the development of indicators for monitoring and evaluating progress achieved within established time frames.

For many of the participating ACP States, trafficking in human beings and migrant smuggling represent new institutional concerns. Thus, while most ACP States have developed the requisite policy framework,¹⁵¹ for other States, the **national strategies and action plans also remain at various stages of development**. Guinea has not yet developed a national policy or strategy on trafficking in human beings, nor on migration.¹⁵² Vanuatu has no national policy or strategy on either THB or SoM, and given the total absence of research or data collection on these issues, they remain a low political priority.¹⁵³ Angola began developing an institutional approach to trafficking in 2014.¹⁵⁴ Samoa also lacks a national policy framework for THB and SoM.¹⁵⁵

Other States are moving towards elaborating national strategies and policies. In the Caribbean, Saint Lucia has made “significant strides in developing requisite TIP-related policy instruments”. It adopted its National Action Plan in April 2016, as well as standard operating procedures and an inter-agency MoU, though increased effort is needed “in bringing life to these policies”, as there has been a slow transition from

- 151 See, e.g. Senegal Domestic Servitude BA, TA/042/2016, p. 6; Waldropt-Bonair, Leigh-Ann, ACP-EU Migration Action, *Baseline Assessment Report: Baseline Assessment in the field of Capacity-building and Institutional Strengthening to Combat Human Trafficking* (Saint Vincent and the Grenadines), TA/033/2016, p. 5 (henceforth “Saint Vincent and the Grenadines BA, TA/033/2016”); Solomon Islands TA, TA/022/2015, p. 24.
- 152 Guinea BA, TA/036/2016, p. 12 (noting however that the National Committee on Combating Trafficking (Comité National de Lutte contre la Traite de Personnes) developed an Operational Action Plan for 2014–2016 in collaboration with IOM and other development partners, with an ambitious list of activities that went unrealized due to lack of resources).
- 153 Eriksson Baca, Linda, ACP-EU Migration Action, *Baseline Assessment Report: Baseline Assessment in the field of Trafficking in Human Beings and Smuggling of Migrants (in Vanuatu)*, TA/018/2015, p. 5 (henceforth “Vanuatu BA, TA/018/2015”), pp. 5, 7; Harvey, Steve, ACP-EU Migration Action, *Collection of data on Trafficking in Human Beings and Smuggling of Migrants in Vanuatu*, TA/018/2015, p. 24.
- 154 Angola BA, TA/041/2016.
- 155 Greenwood, Ross, ACP-EU Migration Action, *Baseline Assessment Report: Proposal to Improve the Coordination of the National Border Committee of Samoa*, TA/048/2016, p. 9 (henceforth “Samoa BA, TA/048/2016”).

TA intervention in Saint Vincent and the Grenadines: revision of the National Action Plan

Saint Vincent and the Grenadines has adopted a National Action Plan, a National Task Force, an Interministerial Working Group and an Anti-Trafficking in Persons Unit within the Police. As part of the Action’s TA intervention in Saint Vincent and the Grenadines, a rapid assessment of the National Action Plan revealed that while it was aligned with the four Ps as set forth in the Trafficking Protocol (prevention, prosecution, punishment and partnerships), it made no reference to:

human rights principles enshrined in for example the OHCHR’s Recommended Principles and Guidelines on Human Rights and Human Trafficking and the UN Convention on the Rights of the Child (CRC). Nor does the NAP mainstream a gender perspective into the analysis or the definition of the action areas.

The assessment also identified the absence of assigned roles and responsibilities for each institution or agency. Through the Action’s support, an adjusted NAP was developed at a workshop with governmental and non-governmental stakeholders to address the identified shortcomings. An MoU was also developed in the context of the TA and signed by relevant stakeholders.

Source: Saint Vincent and the Grenadines TA, TA/033/2016.

policy to practice.¹⁵⁶ Although Swaziland has a national strategy and action plan on THB, it does not mention SoM. There is thus no policy framework for specifically addressing migrant smuggling.¹⁵⁷

Marking a significant achievement, the Solomon Islands’ Trafficking in Persons Advisory Committee updated the THB National Action Plan, its own terms of reference, guidelines for immigration officials and law enforcement, SOPs for the identification, protection and referral for victims and a directory of national service providers.¹⁵⁸

- 156 Saint Lucia BA, TA/040/2016, pp. 5, 8, 9, 10 (noting that the MoU has not yet been finalized or approved).
- 157 Harley, Loksan, ACP-EU Migration Action, *Baseline Assessment Report: Comprehensive study on the smuggling of migrants* (Swaziland), TA/047/2016, p. 12 (henceforth “Swaziland BA, TA/047/2016”).
- 158 Greenwood, Ross, ACP-EU Migration Action, *Baseline Assessment Report: Scoping Study on Trafficking in Persons in the Solomon Islands*, TA/022/2015, pp. 9, 11 (henceforth “Solomon Islands BA, TA/022/2015”).



However, the content of the new NAP contains significantly watered-down objectives, in contrast to the specific, tailored objectives of the previous NAP. For example, pertaining to the prosecution of offenders, the former NAP aimed to:

Investigate and prosecute trafficking offences, and convict and punish trafficking offenders, including those involved in utilising forced labour on fishing vessels, children in prostitution, and forced labour in or near logging camps, fishing vessels, and in the tourism industry.¹⁵⁹

The new NAP provisions on prosecution passively refer to the existence of THB legislation as a deterrent. It provides that the current THB legislation enables “perpetrators to be investigated and prosecuted. The existence of the legislation is an incentive to companies to ensure they comply with the legislation and work against trafficking.”¹⁶⁰

Overlapping mandates between institutions constitute another obstacle for several ACP States, resulting in the absence of uniformity in approach and standards, ineffective coordination and the need for clarity.¹⁶¹ For example, in Swaziland, the functions of the inter-agency THB/SoM task force were taken over by a dedicated THB/SoM secretariat in the Prime Minister’s Office. The legal framework thus does not reflect the current operational reality.¹⁶²

Finally, **monitoring and evaluation** processes of government policies could further be strengthened. For example, incorporating a monitoring and evaluation framework into national action plans, with indicators and timeframes, is a best practice tool for measuring progress and effectiveness. For example in the Dominican Republic, the National Action Plan (NAP) did not produce the anticipated results and this was, among other reasons, attributed to the lack of monitoring, evaluations and follow-up.¹⁶³

159 Solomon Islands TA, TA/022/2015, p. 22.

160 Solomon Islands TA, TA/022/2015, p. 23

161 See, e.g. Guinea BA, TA/036/2016, pp. 24, 25.

162 Swaziland BA, TA/047/2016, p. 12.

163 Also the lack of coordination between actors and the failure to involve civil society; Dominican Republic TA.



Recommendations

National strategies and action plans

- National strategies and action plans should clearly delegate responsibilities and tasks, with established time-frames and indicators for monitoring and evaluation purposes;
- MoUs should be employed to support ongoing inter-agency cooperation;
- Apply monitoring, follow-up and evaluations to track policy implementation and effectiveness;
- Ensure adequate budgeting allocations for the implementation of national strategies and action plans;
- The creation of protocols and standard operating procedures are necessary to ensure that referrals, assistance and protection are provided to victims of trafficking and smuggled migrants consistent with their rights under the Protocols.



A3. Comprehensive legislative and policy framework

Many issues intersect with, and feed into, trafficking in human beings and migrant smuggling.¹⁶⁴ Hence, factors pertaining to trafficking in human beings and migrant smuggling should be mainstreamed across the full range of national laws and policies.

A comprehensive law and policy framework addresses the reasons that drive people to migrate and equally invests in suitable alternatives. To date however, insufficient **options for legal migration** fuel demand for migrant smugglers in many countries. This was also noted throughout the Action's work in Trinidad and Tobago, Swaziland and Senegal.¹⁶⁵ In the case of Senegal, migrants turn to smugglers pushed by the lack of socio-economic opportunities, environmental degradation, climate change, security concerns, and reduced legal channels for migration, and hence they face not only risk of exposure to traffickers and terrorists, but death in the desert or by sea in their attempts to reach West and North African countries and Europe.¹⁶⁶

The country is, however, in the process of finalizing its first **national migration policy**, adopting an integrated approach that addresses issues of protection, migration and development, as well as return and reinsertion.¹⁶⁷ Other ACP countries covered in this report lack migration policies: for example Swaziland¹⁶⁸ and many countries in the Pacific region.¹⁶⁹

In addition to THB- and SoM-specific legislation, the legislative framework should be strengthened comprehensively and harmonized across sectors, including law and policy on:

- migration;
- asylum;
- border control;
- mutual legal assistance;
- child protection;
- gender-based violence;
- labour;
- corporate responsibility;
- corruption.

The search for employment opportunities drives many to migrate, but comprehensive **labour legislation** coupled with effective inspectorates are necessary to curb labour exploitation. Forced labour is one of the principal forms of THB globally. It affects approximately 21 million people and generates an estimated USD 150 billion in annual revenue according to the International Labour Organization (ILO).¹⁷⁰ In many countries, related legislation remains insufficient to date. Senegalese labour legislation contains one outdated decree regulating domestic workers, and fails to provide any regulation for placement/recruitment agencies, rendering workers, primarily young women and girls, vulnerable to exploitation by a chain of actors, including employers, recruiters and transporters, among others.¹⁷¹ Labour inspectors in Vanuatu are not trained in identifying THB.¹⁷² Also in the Solomon Islands, labour law requires amendment to address labour exploitation. Given the open nature in which trafficking in human beings for the purpose of labour and sexual exploitation takes place in Solomon Islands, **corporate responsibility** should be a focus of anti-trafficking efforts.¹⁷³ Insufficient labour legislation (e.g. the complexity of the process for obtaining a work permit, absence of inspections) can also fuel smuggling of migrants, as was noted in Trinidad and Tobago.

A comprehensive law and policy framework encompasses also combating crimes that constitute push factors for THB and related crimes such as domestic and sexual violence, child or early marriage, child begging and corruption.

Child protection schemes are critical both to prevent child trafficking by ensuring support to vulnerable children, and to provide the appropriate assistance to identified child victims. As recommended at the ACP-EU Dialogue Seminar:

to enhance the victim-centred approach in the identification and protection of child victims of trafficking, discussions should take child protection as a central theme, regardless of their legal definition and status. A child protection system needs to be designed in such a way that it serves the victims and listens to the victims.¹⁷⁴

164 But see, Senegal Domestic Servitude TA, TA/042/2016, p. 12 (noting that exploitation persists, despite the existing "legislative and juridical arsenal").
 165 Trinidad and Tobago BA, TA/046/2016, pp. 11, 14; Swaziland BA, TA/047/2016, p. 9.
 166 Senegal Mapping BA, TA/027/2016, pp. 6, 12.
 167 Senegal Mapping BA, TA/027/2016, p. 15.
 168 Swaziland BA, TA/047/2016, pp. 12, 14.
 169 Pacific Islands Forum Secretariat, *Pacific Research Project: Promoting human security and minimizing conflict associated with forced migration in the Pacific region* (2015), p. 15.

170 ILO, *ILO says forced labour generates annual profits of US\$ 150 billion*. Available from www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm, last checked 1 August 2017.
 171 Senegal Domestic Servitude TA, TA/042/2016, pp. 16, 40 (referring to Arrêté No. 0974 of 23 January 1968).
 172 Vanuatu TA, TA/018/2015, p. 24.
 173 Solomon Islands TA, TA/022/2015, p. 17.
 174 ACP-EU Dialogue, Seminar Report, p. 16.



CSO cooperation to provide shelter to child trafficking victims

In Haiti, the London-based NGO, Lumos, collaborates closely with the National Committee to Combat Trafficking in Persons (CNLTP) to provide shelter child victims of trafficking. It also contains a research bureau, which examines the connections between diverse phenomena, such as institutionalization, emergency situations and trafficking in human beings. Lumos works on the international, national and local levels, with both institutions and families.

Efforts in this direction were reported in several of the investigated countries. Senegal has developed a national child protection strategy, and its national strategy on economic and social development also works to reduce child labour.¹⁷⁵ The BAs for Guinea, Papua New Guinea and Haiti highlighted the important potential in working with child protection systems, which are both decentralized and active.¹⁷⁶

Although forms of **gender-based violence**, such as domestic violence and forced, early and child marriage, may be accepted, or practiced with impunity in some cultures, they constitute human rights violations and can lead to additional human rights violations, such as trafficking in human beings.¹⁷⁷ They must be addressed by appropriate legal and policy frameworks as part of any effort to prevent trafficking in human beings. Tackling gender-based violence has become a strong policy focus in Pacific States such as Papua New Guinea¹⁷⁸ and the Solomon Islands, but wider recognition among the general population remains low due to traditional social norms.¹⁷⁹

Where anti-trafficking efforts are at an early stage of development, existing child protection, labour and GBV laws can create a supportive environment, as is the case in Samoa.¹⁸⁰

175 Senegal Domestic Servitude BA, p. 10.

176 Haiti BA, TA/049/2016, p. 15; Guinea BA, TA/036/2016, pp. 18, 23; Papua New Guinea BA, TA/030/2016, p. 12.

177 Solomon Islands TA, TA/022/2015, p. 13 (noting the relationship between the legal minimum age for marriage at 15 years (in violation of international human rights standards) and the absence of a minimum age under customary law, and trafficking in human beings and child sexual exploitation).

178 Papua New Guinea BA, TA/030/2016, p. 12.

179 Solomon Islands BA, TA/022/2015, pp. 7, 17. While the BA indicated that the focus on GBV “monopolized” stakeholders’ attention, a strong focus on GBV serves as a critical form of prevention. GBV and THB efforts should not be seen as working in competition or at cross-purposes.

180 Samoa BA, TA/048/2016, p. 7.



Both victims of trafficking and smuggled migrants can at the same time be **refugees** in need of protection and assistance. Asylum seekers may have secured the services of smugglers in order to flee persecution. For victims of trafficking, the fear of persecution may take the form of re-trafficking, reprisals from traffickers or criminal networks, or social exclusion and discrimination in the country of origin due to having been trafficked that rises to the level of persecution. Child victims may be at risk of ill-treatment if returned to their communities.¹⁸¹ The lack of an **asylum mechanism** places these groups at risk, as there is no system to prevent their *refoulement* to the country of origin, or other country where they face persecution or threats to their life or other fundamental human rights. According to UNHCR, the principle of *non-refoulement* applies to all refugees, including those who have not been formally recognized as such, and to asylum seekers whose status has not yet been determined.¹⁸² Samoa lacks an asylum mechanism, thereby posing a risk to smuggled migrants and trafficking victims who may need international protection.¹⁸³ At the same time, countries around the world are faced with the challenge of the manipulation of asylum procedures by irregular migrants, from the recounting of false stories concerning persecution to the manipulation of fingertips to avoid finger printing.¹⁸⁴ Such manipulation of the asylum system was also reported in Trinidad and Tobago.¹⁸⁵ At the same time, questions remain regarding the effective application of differentiated processes in processing those needing international protection.

Finally, **corruption** facilitates THB and SoM on several levels. UNODC found a correlation between the prevalence of organized crime in a country and the number of trafficking victims from that country “detected in major destinations”.¹⁸⁶ With respect to migrant smuggling, in typical scenarios law enforcement officers accept bribes to allow vehicles to pass through border-crossing points unchecked, and naval or military officers receive payments for every migrant or ship they release. Traffickers and smugglers target consulate and embassy staff to support immigration applications and provide visas and passports.¹⁸⁷ Money laundering is also used to process the immense proceeds generated from both crimes. National legislation must cover the full range of

181 UNCHR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 2006.

182 See, UNHCR, Executive Committee Conclusion No. 6.

183 Samoa BA, TA/048/2016, p. 8.

184 See, e.g., European Commission, *Ad hoc inquiry in to the manipulation of fingertips by asylum seekers*. Available from www.ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/protection/268_emn_ad-hoc_query_manipulation_of_fingertips_19october2010_wider_dissemination_en.pdf.

185 Trinidad and Tobago BA, TA/046/2016, p. 11, 14.

186 UNODC, *Global Report on Trafficking in Persons 2016*, p. 59.

187 Senegal Domestic Servitude TA, TA/042/2016, p. 68 (noting that embassy staff arrange the necessary visas for domestic workers to migrate to Saudi Arabia as “a parallel activity”).



offences for corruption and be effectively implemented. States can draw on UNTOC to combat transnational corruption in conformance with international standards.

Recommendations

Comprehensive legislative and policy framework

- THB- and SoM-related issues should be mainstreamed across the law and policy of a wide range of sectors;
- Relevant international human rights conventions should be signed and ratified, such as: the CRC Optional Protocols, ILO Conventions and the Convention on the Rights of All Migrant Workers and Members of their Families (see also Cross-cutting Issue 4);
- The effective implementation of law and policy on GBV is necessary for tackling trafficking in human beings as a continuum of such violence;
- Child protection should be the central focus of efforts to combat child trafficking.



CROSS-CUTTING ISSUE I

Gender, age, cultural and social norms

Globally, in light of structural economic and social inequalities, the majority of identified trafficking victims are women and children from poor States, regions or communities. This reality is reflected in ACP States receiving TA support. Women and children constitute the majority of identified trafficked persons in countries for which the data was provided, namely in the Dominican Republic, Guinea, Haiti, Senegal, and Solomon Islands.¹⁸⁸ As noted above, women and children tend to experience distinct forms of trafficking based on their gender and their age, such as trafficking for sexual exploitation, marriage and domestic servitude.

In some ACP States, the majority of identified victims are **children**, such as Haiti, where the strong focus on addressing vulnerable children has led to the practice of de facto discrimination against adult victims, “especially men”.¹⁸⁹ Many organizations in Haiti further decline to assist pregnant girls, also constituting discrimination. In Guinea, victims are trafficked from regions of extreme poverty, without education infrastructure. Boys are sent to Koranic schools, or *confiage* (fostering) where they are forced to beg, or they are trafficked for forced labour exploitation in gold and diamond mines or in agriculture; girls and young women are trafficked for prostitution, domestic servitude and forced marriage. Discriminatory gender stereotypes and cultural norms contribute to the failure to recognize such cases as instances of trafficking in human beings.¹⁹⁰

188 Guinea BA, TA/036/2016, pp. 6, 10; BA Dominican Republic, TA/029/2016, p. 9; Haiti BA, TA/049/2016, pp. 5, 13, 14; Guinea BA, TA/036/2016, p. 10; Solomon Islands, TA/022/2015, p. 13 (noting the urgent need to address the commercial sexual exploitation of children in Solomon Islands); ACP-EU Dialogue, Seminar Report, p. 4 (noting the prevalence of child trafficking in Gabon).

189 Haiti BA, TA/049/2016, p. 18.

190 Guinea BA, TA/036/2016, pp. 6, 9–11.



Trafficking in human beings and the harmful practices that lead to violence and exploitation rob children of their right to health, to education and to engage in play as provided in the Convention on the Rights of the Child (CRC).

In countries where **violence against women and girls** remains normalized, exploitation through the use of violence may not be recognized as trafficking in human beings. For example, anecdotes about the accepted practice of early and child marriages of girls by their parents to loggers in Papua New Guinea demonstrate how cultural norms either lend themselves to, and/or constitute, THB.¹⁹¹ Similarly, in Solomon Islands, sexual and labour exploitation of children is practiced openly by employees of logging and fishing companies, parents, as well as village and customary leaders. There have been no arrests, prosecutions or convictions for trafficking in human beings, and the Solomon Islands anti-trafficking law does not criminalize internal trafficking.

The interrelationship between accepted **cultural practices** and trafficking in human beings was identified in several countries: Haiti, Angola, Senegal, Guinea, Solomon Islands and Papua New Guinea. The Action's interventions identified the need to increase knowledge on the correlation of these phenomena. For example, the relationship between *confiage* and trafficking in human beings was noted in Angola, Guinea and Senegal.¹⁹² In Haiti, awareness-raising is needed, targeting families who give their children to foster families, which "instead of taking care of them, treat them as domestic servants" and thus unwittingly feed trafficking networks. As an old practice in Haitian society, it is a delicate issue to tackle.¹⁹³

In Senegal, domestic work constitutes one of the principal survival strategies or impoverished rural communities, their meager salaries providing critical support to their families. Primarily performed by young women and girls as young as 5 years old, domestic workers frequently migrate to urban centres, where they are subject to diverse forms of exploitation.¹⁹⁴ It is the mothers who primarily organize the migration of their young daughters to Dakar and their placement as domestic workers. Families further pressure their daughters to make financial contributions for construction, agricultural materials or food. The pressure is often generated by polygamy, as competition arises between the spouses' children. It results in girls "occasionally prostituting themselves".¹⁹⁵

191 Papua New Guinea BA, TA/030/2016, p. 8 (identifying the extractive industries as the primary demand for trafficking, and the "abuse of cultural practices as a means of recruitment").

192 Angola BA, TA/041/2016.

193 Haiti BA, TA/049/2016, p. 12; ACP-EU Dialogue, Seminar Report, p. 6.

194 Senegal Domestic Servitude TA, TA/042/2016, p. 25.

195 Senegal Domestic Servitude TA, TA/042/2016, pp. 27, 39, 57 (citing a local government official who described domestic workers as the "milking cows" of the family).



AT A GLANCE

Trafficking in women and children for domestic servitude in Senegal

Despite its vital economic role in supporting the economies in both destination countries and in the countries of origin in the form of remittances, domestic work operates within the shadow of the informal sector, providing no rights or protection for the vast majority of workers. Statistically invisible, the millions of domestic workers employed around the world are primarily women and girls. Domestic work is a survival strategy sought by girls and young women (from the ages of 6 to 18) made vulnerable by their lack of education, the death of their parents or husbands or other family difficulties.

The phenomenon of trafficking for the purpose of domestic servitude is fueled by the demand generated by an increasingly aged population, increased numbers of working mothers and single parents in need of childcare, coupled with a seemingly infinite supply of young persons unprepared for traditional or "Western" jobs, who flock to urban centres in light of the lack of opportunities and increased poverty in rural areas due to drought, incoherent agricultural policies, structural adjustment, natural disasters and over-population.

Feminization of the demand for poorly valued work and an over-supply of available work keeps remuneration for domestic workers extremely low, and often provided in the forms of lodging, food and transport. Domestic work is characterized by precarious working conditions, including: instability, exceedingly long hours, no defined work schedule, and the absence of days off, vacations, benefits, maternity leave and medical insurance. Domestic work is further renowned for the abuses it generates: contracts broken or modified on arrival, withholding of salary, physical violence, discrimination, sexual harassment, rape, sequestration, being reduced to conditions analogous to slavery, and the illnesses generated from ill-treatment and over-work. Sexual violence resulting in unwanted pregnancies leads to infanticides or non-recognition of the children born out-of-wedlock.

Migrant domestic workers are at additional risks of being trafficked for forced labour or other forms of exploitation, and a range of abuses by mafia-like recruitment agencies, luring workers into debt servitude. Their invisibility and silence as labourers in private households is exacerbated by their migration status. Yet, the economic interests at stake are enormous on both the supply and demand side. Millions of families in countries of origin around the world survive on



the remittances sent by domestic workers. At the same time, domestic work functions as a pillar on which the economic participation of increasing segments of the population in destination countries depends.

Senegal is signatory to UNTOC and both Protocols, as well as ILO Conventions 182 (on the worst forms of child labour) and 138 (on minimum age). However, it has not ratified ILO Convention 189 (on domestic workers). Relevant national legislation does not cover part-time domestic help, and is difficult to enforce due to the absence of labour inspection in private homes. The necessary labour and migration reforms in destination countries like the United Arab Emirates, Kuwait, Bahrain, Saudi Arabia, Malaysia and Singapore have yet to be adopted.

Source: Senegal Domestic Servitude TA, TA/042/2016.

Yet, inadequate attention is currently paid to the ways in which cultural factors impact upon migrant smuggling and trafficking in human beings processes. Existing research indicates that the cultural and ethnic factors play a major role in the strategies adopted, and that the presence of ethnic diaspora communities in the destination country can act as drivers for irregular migration. Less, however, is known about their role in the context of migration movements themselves.¹⁹⁶

The commercial sexual exploitation of children by their parents and employees of logging and fishing companies is practiced openly and with complete impunity in the Solomon Islands. Boys are subject to labour exploitation by the logging companies, and are used as *solairs*, or facilitators, to provide girls to company employees. The latter also constitutes a form of abuse as the minors are engaged in criminal activities. The preference “both legal and social, towards more informal, non-punishment based solutions” that are grounded in “cultural taboos on speaking about sexual violence and exploitation” means that few cases involving sexual violence are brought to justice. There have been no arrests, prosecutions or convictions for THB over the last eight years. Rather, under the “customary rule” loggers are obliged to pay the parents of a girl approximately USD 640 for her sexual and domestic services.¹⁹⁷

A “culture of migration” was also reported for several countries, including Haiti and Senegal, particularly among certain ethnic groups and in regions with high levels of poverty and low economic development. In Senegal, where migration constitutes a community survival strategy, an estimated 2 out of 5 decisions to migrate are taken

196 IOM, *Migrant Smuggling Data and Research*, p. 126.

197 Solomon Islands TA, TA/022/2015, p. 22.



not only by the individual migrant, but by the head of the household, family and community members. Given that successful migrants are held in high esteem, parents push their children to migrate, and lend them money for the journey.¹⁹⁸ Migrants also receive the blessing of religious or customary chiefs before departure.¹⁹⁹ Such pressure can lead to migrants falling into the hands of those who would abuse and exploit them.

Moreover, one of the leading determinants for irregular migration from Senegal is the pervasive myth of migration as an obligatory element of the path to success. This myth is fed by successful members of the Senegalese diaspora, the privileges accorded to them by the Government, and the high esteem in which the diaspora is held within Senegal, particularly in some regions.²⁰⁰ Because of the shame associated with a failed migration experience, approximately 30 per cent of returning migrants do not go back to their original residence, but rather to another region, often to regions from which they can best attempt to migrate abroad two or three more times.²⁰¹

198 Senegal Mapping TA, TA/027/2016, pp. 32, 33, 36 (noting that migrants are preferred to non-migrants for marriage); Senegal Domestic Servitude TA, TA/042/2016, p. 57 (noting the family pressure on girls to contribute to the family budget results in them prostituting themselves).

199 Senegal Mapping BA, TA/027/2016, p. 13.

200 Senegal Mapping BA, TA/027/2016, p. 10.

201 Senegal Mapping TA, TA/027/2016, pp. 8, 9.



B. Implementation of law and policy

BI. Legal awareness among stakeholders

A strong legal framework alone will have little impact on the fight against trafficking in human beings and migrant smuggling. Duty bearers and other stakeholders must have **sufficient awareness of the legal provisions and capacity to implement them**. The lack of a clear understanding of the definitions of trafficking in human beings and migrant smuggling among stakeholders in some ACP States constitutes a significant barrier to identifying victims and to applying existing laws and policies to concrete cases. This remains a challenge in countries with and without adequate national legislation.²⁰² For example, no sensitization trainings on SoM had yet taken place in Trinidad and Tobago and Swaziland, and stakeholders remained unfamiliar with the definition of SoM and the content of the Migrant Smuggling Protocol, confused the definitions of migrant smuggling and trafficking in human beings, and were unaware that smuggled migrants have rights.²⁰³ Lack of awareness of the law and its application in practice were voiced as the principle concerns among stakeholders in Senegal.²⁰⁴ In Vanuatu, the low level of awareness among relevant stakeholders is coupled with the fact that police have not been tasked to identify cases of THB and SoM.²⁰⁵

Another obstacle facing ACP States is the **lack of dissemination of legislation** to actors within the criminal justice system, such as judges and prosecutors, as well as other key stakeholders. In Saint Lucia, “many key agencies still remain unaware of the Counter-Trafficking Act.”²⁰⁶ The lack of access to updated laws further impedes a uniform application of the law.²⁰⁷

202 See, e.g. Trinidad and Tobago BA, TA/046/2016, pp. 5, 10; Swaziland BA, TA/047/2016, p. 22 (noting the need for capacity-building for law enforcement, prosecutors and judges); Saint Vincent and the Grenadines BA, TA/033/2016, p. 7 (noting that key stakeholders remain unaware of the nature and phenomenon of trafficking, as well as the content of the National Action Plan); Angola BA, TA/041/2016, p. 5; Haiti BA, TA/049/2016, pp. 5, 9, 12 (noting the inability of many stakeholders to define trafficking in human beings, including the police, customs and immigration officers); Samoa BA, TA/048/2016, p. 7; Solomon Islands TA, TA/022/2015, p. 7.

203 Trinidad and Tobago BA, TA/046/2016, pp. 5, 10.

204 Senegal Mapping BA, TA/027/2016, p. 18.

205 Vanuatu BA, TA/018/2015, pp. 7, 8; Vanuatu TA, TA/018/2015, p. 12.

206 Saint Lucia BA, TA/040/2016, pp. 5–7 (noting that the US State Department TIP Report “seemed to be premised on circumstantial accounts”).

207 See also, Guinea BA, TA/036/2016, p. 17.

TA intervention in Vanuatu: awareness and resource allocation to the THB phenomenon

In Vanuatu, no data has ever been collected on THB or SoM, as police/law enforcement agencies have not been tasked with identifying these cases. Hence, no claim that these phenomena are happening in Vanuatu can be supported and consequently, THB and SoM are given a low priority on the political agenda.

The research, meetings, interviews and enquiries undertaken in the course of the TA Intervention have led to the hypothesis that THB is likely taking place in Vanuatu, under different forms.

Source: Vanuatu TA, TA/018/2015.

The **absence of knowledge transfer** within institutions following the provision of trainings was noted in Saint Lucia, limiting the potential impact of capacity-building.²⁰⁸ **High staff turnover** also negates the impact of such efforts.²⁰⁹ The content of trainings must be practically applicable to stakeholders’ day-to-day functions. Specific attention to the **practical application** of the training content was also highlighted.²¹⁰ Limited geographical coverage of trainings was noted as a significant limitation in Papua New Guinea.²¹¹

Contradictions in the legislative framework create further obstacles for criminal justice efforts. Swaziland’s Immigration Act, providing for the criminal liability of smuggled migrants, conflicts with the THB/SoM law, which precludes such liability.²¹² The need for increased coherence between the National Action Plan and the anti-trafficking law was identified as an obstacle in the Dominican Republic.²¹³

208 Saint Lucia BA, TA/040/2016, pp. 9, 10, 18.

209 Saint Lucia BA, TA/040/2016, p. 10; Haiti BA, TA/049/2016, p. 15 (specifically referring to the high turn-over rate of elected officials within relevant ministries); Saint Vincent and the Grenadines BA, TA/033/2016, p. 10.

210 Saint Vincent and the Grenadines BA, TA/033/2016, p. 16.

211 Papua New Guinea BA, TA/030/2016, p. 19; Saint Vincent and the Grenadines TA, TA/033/2016, p. 5.

212 Swaziland BA, TA/047/2016, pp. 12, 14

213 Dominican Republic BA, TA/029/2016, p. 12, 16.



Conflict of law can be a particular issue with respect to child trafficking. In Solomon Islands, the legal minimum age of marriage is 15, in contravention of CEDAW and CRC; there is no minimum age for marriage under customary law.²¹⁴ Senegal’s labour code establishes the minimum working age at 15 years, in contravention of the ILO Minimum Age Convention (138), which it has ratified, establishing the minimum working age at 18.²¹⁵ In Saint Lucia and Saint Vincent and the Grenadines, the definition of a child also varies under diverse legislation.²¹⁶

B2. Investigations, prosecutions and convictions

As discussed under section A, although State signatories are required to harmonize their national legislation with the standards outlined in the Protocols, inadequate legal frameworks, the lack of victim and witness protection, the absence of financial investigations, lack of awareness and capacity to implement the law and difficulties in evidence gathering all constitute continuing barriers to effective prosecutions. Additional obstacles include the lack of a specialized criminal investigations unit, the difficulties in proving all elements of the crimes, and the absence of legal precedent and practical knowledge on building a case.²¹⁷

Recommendations

Legal awareness among stakeholders

- Provide tailored, sector-specific trainings on national law and policy for key stakeholders that foster staff ability to integrate learning into their daily work;
- Create guidelines or aide memoires for use by frontline law enforcement actors;
- Integrate SoM and THB into standardized trainings for all key agencies, especially law enforcement and border management;
- Ensure wide geographic coverage for trainings and awareness-raising, including the involvement of subnational actors.human beings as a continuum of such violence.

GOOD PRACTICE

The creation of specialized criminal investigation units

In the Dominican Republic, the rate of THB prosecutions rose from 4 cases in 2013 to 31 cases in 2016. This significant increase has been attributed, in part, to the creation of a specialized investigation unit on organized crime, the (*Procuraduría especializada contra la trata de personas y Tráfico Ilícito de migrantes* -PETIMTP).

A **proactive approach**, such as conducting undercover investigations, is required to disrupt trafficking and smuggling operations and networks. This has the added benefit of reducing law enforcement reliance on the testimonies of trafficking victims and smuggled migrants.²¹⁸ As revealed by the Action’s TA interventions, several ACP States could be more proactive in engaging in investigations.²¹⁹ The Swaziland BA notes several reasons why gathering evidence with regards to the crime of smuggling was hindered. First of all, identified smuggled migrants are not questioned by law enforcement regarding the smugglers, thereby foregoing the pursuit of available evidence that could surface by interviewing them. Furthermore, garnering evidence to establish the financial or material benefit of the crime of smuggling has been a significant obstacle,

especially given existing confusion over the definitions of the crimes. Finally, **language barriers** between Swaziland law enforcement and smuggled migrants or trafficking victims have also hindered investigations.²²⁰

214 See, CEDAW/CRC, Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, 2014, paras 19–22 (on the harms caused by the marriage of children under the age of 18).

215 Senegal Domestic Servitude TA, TA/042/2016, p. 41.

216 Saint Lucia BA, TA/040/2016, p. 9 (where children are defined as those under the age of 15, 16 or 18, in the Labour Code, Criminal Code and Anti-trafficking law, respectively); Saint Vincent and the Grenadines BA, TA/033/2016, p. 10.

217 See, Saint Lucia BA, TA/040/2016, p. 8; ACP-EU Dialogue, Seminar Report, p. 10.

218 See, e.g. Trinidad and Tobago BA, TA/046/2016, pp. 19, 24; ACP-EU Dialogue, Seminar Report, p. 13.

219 Saint Lucia BA, TA/040/2016, pp. 15, 16 (noting the reactive approach of police is attributed to insufficient human, technological and basic material resources, such as access to vehicles).

220 Swaziland BA, TA/047/2016, pp. 17 (noting also the reticence of many smuggled migrants), 18, 22.



Sometimes, the human capacity and infrastructure needed for intelligence-led policing are simply lacking, as was noted in Solomon Islands and Vanuatu.²²¹

The rate of **prosecution** of human traffickers is low globally, and this remains true for ACP States.²²² Further, ACP States have issued few international arrest warrants.²²³

For example, in Trinidad and Tobago, “THB as an offence is rarely successfully applied in court, which leads to impunity and distrust of victims in the criminal justice process.”²²⁴

Creative approaches are needed in order to work within the context of national-level law and resource constraints.²²⁵ Where gaps in national criminal legislation or the capacity to implement it exist, **prosecution under alternate crimes** can prevent impunity as a short-term solution.²²⁶ This practice prevents impunity for crimes in countries where the legislative framework remains inadequate, or in specific cases due to the lack of sufficient evidence to prove trafficking in human beings or migrant smuggling.²²⁷ However, prosecuting traffickers and smugglers on other charges can skew data on these crimes, and in the case of trafficking in human beings, impede the provision of assistance and protection to victims – assistance to which they are entitled only as victims of trafficking. The BA for the Dominican Republic noted IOM’s concern that trafficking in human beings cases were being prosecuted under other criminal provisions, either due to a lack of awareness of the law or for “procedural economy”. To address this issue, the Dominican Republic’s technical assistance request includes

221 Solomon Islands TA, TA/022/2015, pp. 7, 26 (noting the absence of “intelligence-led” law enforcement); Vanuatu TA, TA/018/2015, p. 14 (noting the absence of proactive investigations and “intelligence-led” policing).

222 Guinea BA, TA/036/2016, p. 17 (noting one conviction in recent years, resulting in a four-month sentence; and no prosecutions or convictions in 2015); Solomon Islands BA, TA/022/2015, pp. 7, 9, 11 (noting no charges or prosecutions under anti-trafficking laws); Swaziland BA, TA/047/2016, p. 16 (noting that a total of four convictions have been identified); Saint Lucia BA, TA/040/2016, p. 13 (reporting no convictions under the Counter-Trafficking Act); Haiti BA, TA/049/2016, p. 16 (noting few investigations); Saint Vincent and the Grenadines BA, TA/033/2016, p. 7 (noting one official case resulting in the arrest of a suspected trafficker); Vanuatu TA, TA/018/2015, p. 9 (noting no arrests, investigations or convictions for THB or SoM),

223 ACP-EU Dialogue, Seminar Report, p. 12.

224 ACP-EU Dialogue, Seminar Report, p. 7 (noting that as a result victims do not come forward with complaints).

225 ACP-EU Dialogue, Seminar Report, p. 12 (emphasizing the importance of “working with what is available”).

226 See, ACP-EU Dialogue, Seminar Report, p. 1.

227 See, e.g. Angola BA, TA/041/2016 (noting the use of criminal provisions on money laundering, slavery and child exploitation from the criminal code of 1886); ACP-EU Dialogue, Seminar Report, p. 5 (noting that in Saint Vincent and the Grenadines, THB cases “appear to be classified as other offences (unlawful sexual intercourse)”).

GOOD PRACTICE

In order to increase the number of successful prosecutions, the Dominican Republic engaged in a series of initiatives, characteristic of a multisectoral comprehensive approach: (a) annual trainings for judges and prosecutors and police; (b) the establishment of a specialized victim support unit; (c) the creation of an NGO-supported rehabilitation centre for victims; (d) the establishment of two protocols: one on the identification, assistance and reintegration of survivors; the other on the detection, assistance and referral of child victims; (e) proactive investigations; and, (f) the establishment of a hotline.

the creation of a training module on criminal investigations, and training on trafficking in human beings and migrant smuggling for functionaries of the recently created Criminal Investigation Unit.²²⁸

While the complexities of investigating and prosecuting cases against criminal networks can be daunting, it is also important to note that organized crime does not always play a large role in THB and SoM in ACP countries. Rather, trafficking in human beings and migrant smuggling are often committed informally by individuals and family members.²²⁹ For example, in Solomon Islands, parents are frequently involved in the sexual exploitation of their children, which is reinforced by “customary rule”.²³⁰ Similarly, parents are responsible for the placement of their young daughters in *confiage* or as domestic workers in Senegal.²³¹ In other countries, a mix of organized criminal groups and loose networks operate along the same routes.²³² As observed by participants in the ACP-EU Dialogue Seminar:

THB and SoM networks are no longer organized in a predominantly top-down manner, but are increasingly characterized by cellular organization composed of quasi-independent small cells, making it more difficult to track and dismantle them.²³³

The use of **distinct investigative methods** may thus be necessary to reflect the diverse levels of criminal organizations, from highly complex, to a few loosely associated individuals. Increased attention should be paid to tracking illicit financial flows and potential corporate responsibility.

228 BA Dominican Republic, TA/029/2016, p. 18.

229 See, e.g. Swaziland BA, TA/047/2016, p. 9 (noting the limited evidence of organized crime).

230 Solomon Islands TA, TA/022/2015, pp. 16, 22.

231 Senegal Domestic Servitude TA, TA/042/2016, pp. 27, 33, 57.

232 Senegal Mapping BA, TA/027/2016, p. 15.

233 ACP-EU Dialogue, Seminar Report, p. 10.



As underscored at the ACP-EU Dialogue Seminar, **building proper case management systems that are compatible across agencies** was recommended, as well as strengthening capacities to enhance reporting, preserve evidence and build cases.²³⁴ Making better and more frequent use of tools, including mutual legal assistance, joint investigations and special investigative techniques, could invigorate efforts to detect and prosecute complex cross-border cases of trafficking in human beings.

Recommendations

Investigations, prosecutions and convictions

- Create a specialized criminal investigation unit, or designate a THB and SoM contact point within national law enforcement structure;
- Build appropriate and compatible case management systems;
- Provide specialized trainings for judges, prosecutors and investigators, with specific attention to building a case;
- Increase efforts to track illicit financial flows;
- Utilize differentiated investigative methods, as to reflect the different levels of criminal organizations involved in trafficking and smuggling;
- Increase utilization of linguistic programmes designed to communicate with victims of trafficking in human beings and smuggled migrants, or increase resources dedicated to linguistic training to overcome language barriers.

234 ACP-EU Dialogue, Seminar report, p. 12.



B3. Primary governance concerns

The **lack of political will to both establish the necessary legislation** as well as to effectively implement it was a key point of discussion at the P2P Exchange.²³⁵ Increased **political commitment** remains necessary in several ACP States.²³⁶ While some ACP States have demonstrated strong political will to tackle trafficking in human beings and migrant smuggling, many of them face very basic governance challenges. An evident function of resource constraints, poor governance structures can also be attributed to an absence of political will, endemic corruption, limited human resource capacity and highly centralized power – all common to emerging democracies, among a myriad of other factors.

Weak governance structures can render specialized technical assistance solely in the fields of anti-trafficking and/or migrant smuggling of marginal utility for stakeholders. Where the governance structures underpinning this work, such as the criminal justice or social welfare systems, do not function effectively, a singular focus on specialized trainings and methodologies is less useful for local actors. Thus, as underscored by discussions among participants at the P2P Exchange, where possible, TA projects should be designed to contribute to strengthening the underlying systems while at the same time building specialized capacities.

Several ACP States are considered **fragile**, with Guinea, Angola and Haiti providing clear examples of how the country situation fosters both crimes and impedes response.²³⁷ Guinea is considered a fragile, politically unstable State, with high levels of criminality, insecurity and impunity. The situation was aggravated by the outbreak of the Ebola virus, which further depleted the country's human and financial resources.²³⁸ In Angola, local traffickers capitalize on the vulnerabilities created by war and unrest, poverty, lack of access to health and education, gender inequality, unemployment and the lack of opportunities.²³⁹ Instability remains endemic in certain geographic regions of Haiti. The country is plagued by kidnappings, natural disasters, unemployment, a culture of migration, the lack of education, inadequate social welfare programs,

235 P2P Exchange, p. 2.

236 See, e.g. Vanuatu BA, TA/018/2015, p. 16 (noting the need to secure commitment by the Government of Vanuatu to go beyond the TA offered by the Action in the provision of assistance to victims); Senegal Domestic Servitude TA, TA/042/2016, p. 40; ACP-EU Dialogue, Seminar Report, p. 3.

237 See, e.g. Fund for Peace, Fragile States Index. Available from www.fundforpeace.org/fsi, last checked 7 February 2018. (ranking Haiti eleventh, Guinea twelfth and Angola thirty-second most fragile out of 178 countries).

238 Guinea BA, TA/036/2016, p. 9.

239 Angola BA, TA/041/2016.



gender inequality, corruption and political instability.²⁴⁰

Widespread **corruption** constitutes a critical governance concern across most ACP States. At the broadest level, corruption impedes sustainable economic development, creating the underlying economic conditions that foster irregular migration and multiple forms of exploitation. Corruption in the Solomon Islands was identified as an impediment to necessary economic development, fueling irregular migration. Corruption is also a serious concern in the forestry and fishing sectors, where trafficking in human beings is conducted openly and is rampant.²⁴¹ In addition to creating an enabling environment in which crimes such as migrant smuggling and trafficking in human beings thrive, corruption often results in the impunity of perpetrators. In Swaziland, corruption was identified as a problem both with respect to formal border control and within departments responsible for issuing entry and residence permits.²⁴² In Trinidad and Tobago and Saint Lucia, corruption was identified as a significant enabling factor for migrant smuggling and trafficking in human beings, respectively, which “should not be ignored but instead addressed comprehensively.”²⁴³ In contrast, “most commentators regard [Samoa] and its institutions as being free of any significant level of corruption.”²⁴⁴

Access to **civil registration** documents can reduce the vulnerability of potential victims. At the same time, “[i]f an identity can be changed easily, perpetrators will go unpunished.”²⁴⁵ In the Solomon Islands, with over 900 islands, civil registration infrastructure remains limited. Consequently, many births remain unregistered, and many “nationals have no identity document of any kind and no clear idea of their date of birth.”²⁴⁶ The lack of civil registry documents was also cited as one of the reasons migrants resorted to smugglers in Swaziland, and for the difficulties in combating trafficking in human beings in Angola.²⁴⁷ Haiti also faces a national “ID crisis”, in which many people do not have identity documents, rendering them easy targets of THB.²⁴⁸ In contrast, national identity infrastructure is developed in Samoa, and births are registered.²⁴⁹

240 Haiti BA, TA/049/2016, p. 6.
 241 Solomon Islands BA, TA/022/2015, p. 11; Solomon Islands TA, TA/022/2015, p. 21.
 242 Swaziland BA, TA/047/2016, p. 10.
 243 Trinidad and Tobago BA, TA/046/2016, pp. 5, 12 (citing the issuance of legitimate passport stamps); Saint Lucia BA, TA/040/2016, p. 5.
 244 Samoa BA, TA/048/2016, p. 11.
 245 ACP-EU Dialogue, Seminar Report, p. 2.
 246 Solomon Islands BA, TA/022/2015, p. 11.
 247 Swaziland BA, TA/047/2016, p. 9; Angola BA, TA/041/2016 (noting the lack of funding and human resources to provide children with identity documents).
 248 ACP-EU Dialogue, Seminar Report, p. 6.
 249 Samoa BA, TA/048/2016, p. 11.

Effective **decentralization** constitutes a common governance challenge raised in several ACP States, limiting meaningful response and victim assistance outside of urban centres and in remote regions. Successful decentralization requires resources, capacity-building and effective collaboration between entities working at the local level. Yet, in Guinea, for example, neither of the two key national anti-trafficking bodies, the national anti-trafficking committee and the Office for the Protection of Gender, Children and Mores, have the resources needed to work in communities with high incidence of trafficking in human beings.²⁵⁰ In the Solomon Islands, awareness of THB outside of the capital remains low, and services for victims are limited, if they exist, at the provincial level.²⁵¹

TA intervention in Senegal: mapping of departure communities

Variations in the social and economic context across subnational regions can best be accounted for when policymakers have local knowledge and contacts through decentralized operations. Senegal has established regional offices of the labour ministry to address child labour, such as forced labour in agriculture and forced begging, which could be a first step for developing this local knowledge. However, for the moment, a lack of resources and coordination with NSAs has impeded its effectiveness.

Additionally, in order to better comprehend the sometimes subtle differences between the different departure communities for irregular migration, the Action’s TA conducted a mapping of those communities in different regions throughout Senegal. The mapping establishes a clear evidence base to be taken into account when developing specific policies tackle the phenomena of SoM and THB.

Source: Senegal Mapping TA, TA/027/2016.

On a positive note, Senegal has established regional offices of the ministry of labour to address child labour, such as forced labour in agriculture and forced begging. However,

250 Guinea BA, TA/036/2016, p. 17.
 251 Solomon Islands BA, TA/022/2015, pp. 10, 11.



a lack of resources and coordination with NSAs has impeded its effectiveness.²⁵² In Samoa, in contrast, the Government is “strongly connected to the village system” through the delivery of health, education, labour, social welfare and law enforcement agencies, which “have extant networks which can [be] and are leveraged.”²⁵³

As discussed at the P2P Exchange in Guyana, in some countries anti-trafficking programmes have been placed within **weak, underfunded institutions**.²⁵⁴ For example, in Swaziland the mandate created for the THB/SoM Task Force was described as a “tall order” requiring “substantial financial human and material resources,” which was not provided.

In several countries, THB efforts have been located within the mandate of institutions working in the field of gender. Such placements can foster a gender-sensitive approach to addressing trafficking in human beings. At the same time, State institutions focused on gender issues tend to receive smaller portions of national budgets, reflecting the lack of priority attached to issues primarily affecting women and girls.²⁵⁵ For example, in Guinea, the branch of the police charged with the implementation of the anti-trafficking law is the Office for the Protection of Gender, Children and Mores, which has insufficient financial resources. Victim protection and assistance in Guinea falls to the National Committee to Combat Trafficking in Persons within the ministry charged with social welfare, gender and children, which also lacks sufficient funds.²⁵⁶ This structure can foster addressing important linkages between these crimes. At the same time, care should be taken to ensure that national institutions do not replicate the structural discrimination that renders women, girls and other vulnerable persons over-represented among trafficking victims. Complications can also arise when gender authorities, with expertise on women and girls, constitute the only national organ responding to assist victims who are men and boys, as is increasingly the case.

Another governance challenge pertains to **legal pluralism**. A law enforcement-driven approach is likely to make little headway where ineffective decentralization of the formal justice sector and informal or customary justice is the norm in rural and remote areas. Several ACP States recognize informal justice systems, or customary

law, including Guinea, Samoa and the Solomon Islands. For example, in Guinea and also in Haiti, the two leading anti-trafficking institutions do not have “sufficient logistic and financial means” to work in local communities, and formal justice is accessible only in urban centres. Consequently, informal justice or “social mediation” operates in rural areas, where local leaders, such as religious and customary chiefs, are able to use their influence to escape justice.²⁵⁷

In this regard, actors within informal or customary justice mechanisms require sensitization along with their counterparts in the formal justice sector.²⁵⁸ In particular, they need to be sensitized on gender discrimination through the perpetuation of traditional social norms, which often discriminate against women and girls. As underscored by the CEDAW Committee:

The presence of plural justice systems can in itself limit women’s access to justice by perpetuating and reinforcing discriminatory social norms. In many contexts, the availability of multiple avenues for gaining access to justice within plural justice systems notwithstanding, women are unable to effectively exercise a choice of forum.²⁵⁹

In the Solomon Islands, “[c]ustomary law operates across the country,” according to which “‘retaliation’ is common to resolve disputes, including crimes against women and children,” and “‘compensation’ may be accepted as a full remedy even for very serious crimes.” Furthermore, “female and younger members of households must often comply with decisions taken by elder family members and males, in particular.”²⁶⁰

In Guinea, Senegal, Angola, Haiti and Vanuatu, stakeholders at both the national and local levels lack awareness regarding the relationship between the traditional practices of *confiage* and *talibé* and trafficking in human beings.²⁶¹ Working with village chiefs and other local leaders was recommended in the BAs for several countries as a means of both obtaining important data on migratory flows as well as for the purposes of prevention. For example, as customary chiefs often bless migrants before departure in Senegal, the Action’s technical assistance efforts identified them as a potentially significant target for prevention.²⁶²

252 Senegal Domestic Servitude BA, TA/042/2016, p. 10.

253 Samoa BA, TA/048/2016, p. 11.

254 See, e.g. Saint Vincent and the Grenadines BA, TA/033/2016, p. 13 (noting the absence of financial, human and technological resources); Swaziland BA, TA/047/2016, p. 6.

255 See, e.g. Saint Lucia BA, TA/040/2016, p. 13; Guinea BA, TA/036/2016, p. 24; Swaziland BA, TA/047/2016, p. 17 (noting that the Domestic Violence and Child Protection Unit of the Royal Swaziland Police Service leads SoM investigations, though other specialized units can be brought in).

256 Guinea BA, TA/036/2016, pp. 16, 24 (noting that the National Committee to Combat Trafficking in Persons has no operational budget, and the overall lack of political will among national-level actors).

257 Guinea BA, TA/036/2016, p. 17 (citing a deputy mayor’s intercession into the case of a local Imam found exploiting the labour of children sent to his Quranic school, in order to “mediate” the case).

258 See, e.g. Vanuatu BA, TA/018/2015, p. 14.

259 CEDAW, General recommendation on women’s access to justice, CEDAW/C/GC/33, 23 July 2015, para 62.

260 Solomon Islands BA, TA/022/2015, pp. 7, 10.

261 Vanuatu BA, TA/018/2015, p. 15.

262 Senegal BA, pp. 13, 24; Vanuatu BA, TA/018/2015, p. 14.



Recommendations

Primary governance concerns

- TA projects should be designed to contribute to strengthening underlying governance systems while at the same time building specialized capacities;
- Bolster civil registration processes and the issuance of identity documents;
- National-level coordination structures should incorporate subnational actors into policymaking and referral initiatives, as well as build the capacity of local actors to foster the decentralization of anti-THB and anti-SoM initiatives and effective protection and assistance to vulnerable populations outside of urban centres;
- THB and SoM programmes and policies should capitalize on existing active decentralized systems, such as in the field of child protection, to incorporate anti-THB and anti-SoM initiatives;
- Anti-trafficking and anti-smuggling programme implementation should not be designated to underfunded institutions with weak political leverage;
- Sensitize actors within informal or customary justice mechanisms along with their counterparts in the formal justice sector, with regards to THB and SoM, including underlying discrimination mechanisms.



CROSS-CUTTING ISSUE 2

Stakeholder capacity-building

The need for capacity-building cuts across almost all the issues identified in this report, and is a key concern of the Action given that its mandate is to provide technical assistance. Indeed, 5 of the 14 investigated interventions concern requests for capacity-building. Stakeholder capacity-building constitutes a recognized form of international cooperation. Both the Trafficking and Migrant Smuggling Protocols foresee capacity-building of State actors and NSAs.

The Trafficking Protocol provides for the capacity-building of relevant State actors, emphasizing cooperation with civil society and the importance of a human-rights based, and gender-sensitive approach. Article 10(2) states:

States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

The Migrant Smuggling Protocol underscores inter-State cooperation and collaboration with civil society. It provides:

States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories



to prevent, combat and eradicate migrant smuggling and to protect the rights of migrants who have been the object of such conduct.²⁶³

Basic trainings should cover the definition of each crime, the Protocols and sensitization – all tailored to the needs of diverse agencies (i.e. border management, health, social welfare, labour inspectorate, etc.). THB and SoM issues should be incorporated into existing institutional training programmes, such as judicial and police academies. In addition to fostering effective identification, investigation and prosecution, clarity on the definitions of the crimes can improve the validity of collected data and serve to prevent the prosecution of smuggled migrants and trafficking victims, in violation of their rights. Given weak primary governance capabilities in many ACP States, THB- and SoM-specific trainings should be designed to strengthen the underlying capacities of key stakeholders.²⁶⁴ THB and SoM trainings can and should also be extended beyond traditional stakeholders, to the business sector, the media and the public, among others.²⁶⁵

Stakeholders require **training on a wide range of functions** in order to effectively implement the law. These may include: detection, investigation and intelligence techniques, strategies to combat both crimes, case building and case management, money laundering and anti-corruption strategies, identification and safe referral, screening and interview techniques, foreign language skills, protection strategies for trafficking victims and smuggled migrants, the rights of trafficking victims and smuggled migrants, victim assistance, effective border management, data collection and analysis, database management and monitoring and evaluation.²⁶⁶ Frontline actors should also be trained to work within the context of a decentralized, standardized official referral and case management system. Capacity-building support could come in other forms, such as technical support in the field of financial intelligence.²⁶⁷

With respect to the provision of protection and assistance to victims of trafficking and smuggled migrants, capacity-building is needed for both State actors as well as NSAs in victim identification, screening and in the provision of assistance to the

263 Article 14(2), Migrant Smuggling Protocol.

264 See, e.g. Vanuatu TA, TA/018/2015, p. 17 (noting the need to provide basic training on “intelligence as a fundamental element of law enforcement”); Solomon Islands TA, TA/022/2015, pp. 28, 30, 32.

265 See, e.g. Trinidad and Tobago BA, TA/046/2016, p. 24.

266 See, e.g. Trinidad and Tobago BA, TA/046/2016, p. 17; Saint Lucia BA, TA/040/2016, pp. 10, 13, 14, 16 (noting the “urgent need for training” in detection, investigation and prosecution); Papua New Guinea BA, TA/030/2016, pp. 10, 19 (noting challenges in building a case); Saint Vincent and the Grenadines BA, TA/033/2016, p. 10 (noting the need for the full range of listed trainings and support for their practical application).

267 See, e.g. Saint Lucia BA, TA/040/2016, p. 10; Papua New Guinea BA, TA/030/2016, p. 19.



Capacity-building: Practical recommendations

- Train the Trainers for sustainability and larger geographical coverage;
- Integration into existing training programs and cooperate with existing training mechanisms/ institutions;
- Use case studies (success and failure) for trainings;
- Target all levels: working-level staff as well as high-level authorities with political leverage.

diverse categories of trafficking victims and smuggled migrants encountered in mixed flows.²⁶⁸ In several States, few or no NSAs have the capacity to offer specialized assistance to victims of trafficking.²⁶⁹ Despite the absence of expertise among CSOs in Haiti and Saint Lucia, many expressed a strong willingness and interest in doing so, and requested training on the necessary administrative, technical and financial functions.²⁷⁰

In addition to the development of training materials, the **creation of standard operating procedures, guidelines and aide memoires** for front-line responders could further strengthen stakeholder capacity across the range of sectors.²⁷¹ For example, SOPs for identifying, reporting and investigating THB and SoM, as well as for referrals and provision of assistance to victims of trafficking and smuggled migrants.

In many ACP States, capacity-building support for stakeholders is provided and/or financed by development partners, international organizations and CSOs.²⁷² The Action is developing training materials for stakeholders in response to these needs in several ACP countries,²⁷³ as well as providing specialized trainings, including on diverse lines of criminal investigations for the Dominican Republic’s newly-formed specialized criminal investigation unit.²⁷⁴

268 See, e.g. Saint Lucia BA, TA/040/2016, pp. 10, 12; Haiti BA, TA/049/2016, pp. 9, 10, 15, 16, 19.

269 Samoa BA, TA/048/2016, pp. 5, 14 (noting the absence of any NSAs working on THB and SoM issues and the existence of only a few NSAs that work in the fields of gender-based violence and labour rights); Papua New Guinea BA, TA/030/2016, p. 12 (noting the absence of NSAs with trafficking-specific expertise).

270 Haiti BA, TA/049/2016, p. 9 (noting that numerous NGOs work on child protection issues, but none is focused solely on trafficking in human beings); Saint Lucia BA, TA/040/2016, pp. 8, 17 (noting the absence of a hotline).

271 See, e.g. Solomon Islands TA, TA/022/2015, pp. 11, 21, 32.

272 Guinea BA, TA/036/2016, p. 16 (noting that such trainings have been provided by IOM, UNICEF, Terre des hommes, and several national NGOs); Swaziland BA, TA/047/2016, p. 19 (UNODC, SADC and IOM).

273 Trinidad and Tobago, and the Dominican Republic (criminal investigation module).

274 Dominican Republic BA, TA/029/2016, pp. 5, 14.



CROSS-CUTTING ISSUE 3

Resource constraints

Financial obstacles continually pose a significant obstacle to anti-trafficking and anti-human smuggling efforts around the world. Financial resource constraints are caused by several factors, such as the limited national budgets in developing States, corruption, shadow economies and the lack of priority attached to these issues, among others. Financial resource constraints were cited as a significant obstacle to effectively implementing laws and policies on SoM and THB in almost all ACP States.

Generalized resource limitations constitute an important factor in determining the best focus of, and means for, implementing TA support, as noted in the BAs for Guinea and Saint Vincent and the Grenadines.²⁷⁵ While Saint Lucia enacted a legal and policy framework in line with the Trafficking Protocol, its content is too ambitious because of the generalized lack of resources. Saint Lucia lacks such basic material resources as vehicles for police investigations, as well as the necessary human, financial and technological resources to pursue financial investigations.²⁷⁶ The absence of the human resources needed to implement the law, especially regarding civil registration and the issuance of documents as well as border control was identified in Angola.²⁷⁷

Similarly, **limited infrastructure development** can hinder anti-SoM and anti-THB efforts, such as police response and data collection. The Solomon Islands provides a striking example of the challenges faced due to limited infrastructure. The country encompasses 900 islands, with a highly decentralized population. Remote areas lack the presence of any government official or NSA, transport remains unreliable, government offices lack computers and many locations have no constant electricity supply or ICT connection. Consequently, best practice data collection techniques used

275 Guinea BA, TA/036/2016, pp. 5, 25; Saint Vincent and the Grenadines BA, TA/033/2016, p. 13 (noting the absence of financial, human and technological resources).

276 Saint Lucia BA, TA/040/2016, pp. 9, 15.

277 Angola BA, TA/041/2016, pp. 5, 6.



in the context of developed countries will not work, but must be adapted to the local context.²⁷⁸ Likewise, Samoa is comprised of multiple volcanic islands that in many areas prevent concentrated human settlement, constrain transport and communication links, and complicate the delivery of and access to services. The isolation of remote villages constrains formal employment opportunities. In these circumstances, some Samoans are potentially vulnerable to exploitation.²⁷⁹ Samoa has only one patrol boat to regulate maritime traffic in territorial waters. Solomon Islands, Vanuatu and Trinidad and Tobago face similar infrastructure challenges and resource constraints in managing maritime border control.²⁸⁰

Several BAs and TAs identified the absence of the allocation of **funds from the national budget** on these issues.²⁸¹ For example, in the Dominican Republic, participant agencies in the national coordination mechanism did not commit financial resources from their respective budgets to implement the national action plan.²⁸²

At the same time, several ACP States have mandated underfunded offices or departments, sometimes those dedicated to issues of gender and child protection, with implementing anti-human trafficking laws. In this regard, government policies that locate anti-trafficking efforts within weak, underfunded institutions perpetuate the underlying structural economic and social inequalities that render women and children over-represented among the world's poorest and thus vulnerable to exploitation. Consequently, victims of grave human rights violations by human traffickers suffer additional rights violations by governments that fail to ensure their rights to services, protection, and access to justice and remedies.

With respect to protecting the rights of trafficking victims and smuggled migrants, resource constraints are not recognized as a justification or defense of the commission of human rights violations by States. Yet, many States provide no financial resources to NSAs that provide assistance and services to trafficking victims and smuggled migrants, although doing so falls within the State's due diligence obligations.²⁸³

278 Solomon Islands BA, TA/022/2015, pp. 14, 16, 17.

279 Samoa BA, TA/048/2016, p. 11.

280 Samoa BA, TA/048/2016, p. 11; Solomon Islands BA, TA/022/2015, p. 11; Trinidad and Tobago BA, TA/046/2016, pp. 11, 19; Vanuatu TA, TA/018/2015, p. 12.

281 See, e.g. Trinidad and Tobago BA, p. 5; Papua New Guinea BA, TA/030/2016, p. 12; Saint Lucia BA, TA/040/2016, p. 11 (noting that stakeholders viewed the notion of the Ministry of Home Affairs, Justice and National Security funding implementation of the nascent National Action Plan "as an impractical arrangement due to limited financial resources of the Ministry and the country in general").

282 Dominican Republic BA, TA/029/2016, pp. 12, 15, 16.

283 Dominican Republic BA, TA/029/2016, p. 17; Guinea BA, TA/036/2016, pp. 11, 16 (noting severe budget cuts to the Ministère de l'Action Sociale, de la Promotion Féminine et de l'Enfance, which is charged with assisting trafficking victims, and that the Office of the Protection of Gender, Children and Mores within the Police has no resources to enforce the law).



The donor community must effectively liaise and collaborate to foster alignment between programmes. Conflicting visions and priorities among donors, such as the almost exclusive focus by some on criminal law enforcement and prosecutions to the detriment of a more holistic approach, was also identified as complicating anti-trafficking programmes.²⁸⁴

284 Haiti BA, TA/049/2016, p. 18, (noting principally the difference between EU and American donors); P2P Exchange, p. 4.



C. Effective border management and tracking illicit financial flows

CI. Border management

States maintain the sovereign right to control their borders and to regulate migration. They face the difficult challenge of achieving an effective balance between ensuring national security and managing the mobility that fosters economic growth and social development. While border crossing is inherent to migrant smuggling, it is a common characteristic of trafficking in human beings as well. Both crimes are frequently characterized as border security problems. The **effective management of national borders** constitutes a critical component of inhibiting migrant smuggling and trafficking in human beings, as it functions to deter criminals and to identify victims.

Rising levels of migration have resulted in the tightening of borders in destination and transit countries. Some States have utilized pre-emptive measures to push borders offshore. Such security driven measures have been criticized for their lack of **protection of migrants' basic human rights**, particularly in the case of refugees and asylum seekers.

At the same time, restrictive border control measures have contributed to the growing **demand for clandestine migration options**, including the use of smugglers and the procurement of fraudulent documents. For example, the tightening of the border in the Schengen zone and the reduction of legal migration options have led to a multiplication of travel agencies in Senegal providing fraudulent job offers and scholarships. Use of smugglers in Senegal is reportedly less expensive than migrating through legal channels.²⁸⁵ In addition to fueling migrant smuggling, heightened border control renders border crossings increasingly perilous, which has resulted in thousands of deaths over the last few years. In other words, the same policies and measures aimed to stem migrant smuggling and trafficking in human beings have exacerbated the human, social and economic costs to States and the smuggled and trafficked migrants. Increased air travel control, limited legal pathways and FRONTEX's maritime operations along the coast of Senegal have pushed migrants to travel by land, where they confront numerous risks and forms of abuse.²⁸⁶

285 Senegal Mapping BA, TA/027/2016, p. 11.

286 Senegal Mapping BA, TA/027/2016, p. 11.



The issues that arise when an emphasis is placed on border control alone should also be considered. In the context of the TA for Samoa, for example, efforts to address trafficking in human beings and migrant smuggling are framed solely in terms of national security and border control, and foresee support for State institutions whose policies preclude cooperation with NSAs.²⁸⁷

In addition to the abuses perpetrated by human traffickers and migrant smugglers, many human rights violations suffered by smuggled migrants and trafficking victims are perpetrated by States. It is often difficult for border and other frontline officials to distinguish trafficked from smuggled migrants, especially if the crimes are often interrelated. As a result, trafficking victims and smuggled migrants in need of protection have been held in lengthy detention, either while officials attempt to determine their status, or where they remain unidentified and deported. In Guinea, foreign victims tend to be repatriated immediately, and no follow up is undertaken once they cross the border.²⁸⁸ Frontline border officials must ensure the prompt and accurate identification of victims of trafficking in human beings and smuggled migrants in need of protection, and enable their assistance through appropriate referrals. Frontline officials should have the awareness and tools to **identify and properly assist these victims**. Training efforts should be dedicated as necessary. Sometimes awareness of THB and SoM is good at senior levels, while it remains low among operational and frontline officials, as was noted in Samoa.²⁸⁹

The lack of **sufficient resources** to effectively manage borders also operates as a significant constraint. To perform their job effectively, border guards need sufficient human and technical resources, those appropriate to the specific geographical and country context. Border officials also need the means to patrol remote entry points, like those in archipelagos, porous borders and other challenging terrain. Several ACP States face resource constraints for border control. Samoa has only one patrol boat, multiple volcanic islands, and thus “a very limited capacity to regulate maritime traffic in its territorial waters.”²⁹⁰ In Trinidad and Tobago, resource constraints of key border control agencies “impeded their ability to effectively secure national borders,” which is a porous coastline with many points of entry and difficult to police.²⁹¹ Similarly, in the Solomon Islands, with over 900 islands and a sea border with Papua New Guinea,

resource constraints impede effective border control.²⁹² SADC States also face the challenge of porous borders, demarcated by fencing that is trampled, cut and burrowed under and climbed over. Informal border crossing is common and the borders are irregularly patrolled. Furthermore, it has been reported that local communities offer assistance on how to avoid patrols in exchange for money.²⁹³

Furthermore, **corrupt** border and immigration officials are often complicit in the evasion of border controls and in the procurement of fraudulent documents, such as passports, national identification cards, visas, and residence or work permits.²⁹⁴ For example, customs officers reportedly accept bribes to pass vehicles across borders on the route to North Africa.²⁹⁵ Border controls worldwide continually fail to prevent and detect trafficking in human beings due to corruption or a lack of human, technical and/or resource capacity. In Swaziland, corruption was identified as a problem both with respect to formal border control and within departments responsible for issuing entry and residence permits.²⁹⁶

IOM highlights four core elements of effective border management: i) identity management; ii) border management information systems; iii) integrated border management; and, iv) humanitarian border management. Effective identity management involves registering all citizens at birth, reviewing travel document issuance processes and facilitating the issuance of reliable identity documents, and ensuring that false or fraudulent travel documents are flagged at points of entry.²⁹⁷ Updated surveillance and biometrics technology, such as fingerprinting, iris recognition and facial scanning, can impede the use of counterfeit travel documents. New technology offers the potential to create documents that are difficult to falsify, forge or alter. In Samoa, the ICT systems and datasets used by border management and customs officials “provide a solid foundation for effective border control.”²⁹⁸

Border and immigration officials have an important role to play in intelligence and data gathering. The use of a **border management information system** allows governments to collect, process, store and analyse information on migrants’ and refugees’ arrival

287 Samoa BA, TA/048/2016, p. 10.

288 Guinea BA, TA/036/2016, pp. 18, 19 (noting anecdotally one instance in which 48 presumed victims were imprisoned for two days in potentially close proximity with their traffickers). In contrast to Guinea, in the Solomon Islands, internal cases of sexual exploitation receive less attention than cases involving the labour exploitation of foreign nationals. Solomon Islands BA, TA/022/2015, p. 10.

289 Samoa BA, TA/048/2016, pp. 5, 14.

290 Samoa BA, TA/048/2016, p. 11.

291 Trinidad and Tobago BA, TA/046/2016, pp. 11, 19.

292 Solomon Islands BA, TA/022/2015, p. 11.

293 Swaziland BA, TA/047/2016, p. 10.

294 Europol, *Migrant Smuggling in the EU*, p. 12.

295 Border guards reportedly work in connivance with smugglers on the land route through Agadez, Niger, by which most irregular migrants travel from Senegal. Senegal Mapping BA, TA/027/2016, p. 12.

296 Swaziland BA, TA/047/2016, p. 10.

297 See, IOM, Global Compact Thematic Paper, *Border Management (2017)*, p. 1. Available from www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-Thematic-Paper-Border-Management.pdf

298 Samoa BA, TA/048/2016, p. 11.



and departure. Ideally functioning in real time, it allows border officials to form an accurate picture of cross-border movements and affords them the ability to create evidence-based traveller risk profiles. Over the long term, improved data collection and information exchange can strengthen proactive, evidence-based policies and responses at the border.

With respect to intelligence, border officials might identify a dangerous route resulting in several deaths and initiate a campaign to warn potential migrants as a means of prevention. Border and immigration officials also need ongoing support, resources, training and mentoring to effectively fulfil their duties, not just in identifying and assisting victims, but also in managing the initial stage of investigations into suspected cases of trafficking in human beings and migrant smuggling, which involve the preservation of evidence and detention of suspects.

Integrated, or coordinated, border management involves close cooperation between customs and border officials in other countries to reduce duplication “and maximize efficient and effective use of resources at border posts.”²⁹⁹ **Humanitarian border management** refers to operations before, during and after humanitarian crises that involve large-scale cross-border movements to protect crisis-affected migrants.

Successful border management requires expanding strategies, such as working more closely with local communities and in closer collaboration with local authorities.³⁰⁰ This might be an important strategy where informal border crossings constitute an issue, such as in Swaziland.³⁰¹ Border management can further be strengthened through the participation of non-State parties, such as airlines, to operate as gatekeepers, and by the issuance of stricter visa requirements.

Uncovering the operations of complex criminal networks that are quick to shift routes and strategies, and to take advantage of legal loopholes and the use of quasi-independent local cells, requires creative and flexible policing and an increased reliance on situational awareness and real-time intelligence based on effective intelligence sharing. **Cross-border investigations** further require cooperation, partnerships and information sharing with homologous agencies across State lines. Participants at the ACP-EU Dialogue Seminar underscored the need for the assistance of international organizations in regional border management and information sharing practices.³⁰²

299 See, IOM, Global Compact Thematic Paper, *Border Management*, p. 6.

300 ACP-EU Dialogue, Seminar Report, p. 5 (recommending enhancing border management by involving border communities).

301 Swaziland BA, TA/047/2016, p. 22.

302 ACP-EU Dialogue, Seminar Report, p. 6.



Border control is one of the biggest challenges faced by Vanuatu and other Pacific States, and considerable progress has been made by setting up bilateral agreements, and through regional cooperation in the context of regional dialogue. (see also section D).³⁰³

Recommendations

Border management

- Border officials should have sufficient training and tools to effectively tackle transnational crime and support the identification of possible victims of trafficking and smuggled migrants in need of assistance;
- The capacity of border officials to identify victims of trafficking and smuggled migrants should be strengthened, and to ensure their referral to needed assistance and protection;
- Develop standard operating procedures (SOPs) or protocols on the identification of migrants who may need assistance or further screening, including possible victims of trafficking and smuggled migrants in need of assistance;
- Develop/strengthen border information management systems to process and collect data on migrant and refugee arrivals and departure, that facilitate intelligence gathering and the formulation of risk profiles;
- Strengthen international cooperation with other countries, and foster opportunities for cross-border collaboration on investigations;
- Anti-corruption efforts should focus on border, customs and immigration officials;
- Participate in regional border management efforts supported by international organizations;
- Data collection and information sharing by border officials should form an essential part of cross-border investigations and other evidence-based enforcement initiatives.

303 ACP-EU Dialogue, Seminar Report, p. 7.



C2. Tracking illicit financial flows

Migrant smuggling and trafficking in human beings criminal networks accrue immense profits, estimated by Interpol to amount to billions of US dollars each year – funds that can further strengthen the criminal enterprise or be laundered into the legitimate economy. Given these inroads into the licit economy, financial investigation constitutes an essential tool for effective response to organized crime. Financial investigations can reveal prosecutable evidence of criminal activities, map criminal networks, and serve in the design of detection and monitoring tools.³⁰⁴ Tracking illicit financial flows can also impede the work of smugglers and traffickers by, inter alia, reducing their profits.

GOOD PRACTICE: The confiscation of criminally-derived assets

In the Dominican Republic, the confiscation of the assets and proceeds of criminals convicted of trafficking in human beings was underscored as a more effective deterrent than imprisonment.

Yet, “[t]here is only limited intelligence available on the criminal proceeds, illicit financial flows or money laundering processes associated with migrant smuggling activities.”³⁰⁵ The BAs in a few ACP States, such as Saint Lucia and Papua New Guinea, identified the need for technical assistance to track illicit financial movements. Some of the examined countries have taken steps to foster the identification these financial flows. For example, in Vanuatu a locally designed database on financial intelligence is operational.³⁰⁶ However, more effort and capacity-building should be placed on “following the money”, to track the activities of criminal actors, but also to impose the form of punishment with the most deterrent effect: confiscation. The importance of the **confiscation of assets of smugglers and traffickers** was stressed also at the P2P Exchange as inflicting the most damage to criminal actors, in contrast to sentences involving imprisonment alone, thereby indeed underscoring the need to **trace financial flows**.³⁰⁷ Confiscated criminal proceeds can furthermore be used to support national and international trust funds for survivors.

304 See, European Commission, Migration and Home Affairs, *Financial Investigation*. Available from www.ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/financial-investigation_en, last checked 7 February 2018.

305 Europol, *Migrant Smuggling in the EU*, p. 13.

306 Vanuatu BA, TA/018/2015, pp. 7, 12.

307 P2P Exchange, p. 3.

Recommendations

Tracking illicit financial flows

- Tracking illicit financial flows is a strategy that should be increasingly deployed to deter both crimes;
- Establish legislation for the confiscation of the instruments and proceeds of trafficking in human beings, migrant smuggling and related offences, specifying that the confiscated proceeds will be used for the benefit of victims;
- Confiscated funds should be used to create a trust fund to support reintegration and remedies for victims of trafficking in human beings and smuggled migrants.



D. National and cross-border cooperation and coordination

Given the multidisciplinary aspects of tackling trafficking in human beings and migrant smuggling, inter-agency cooperation at the national level is imperative, involving not only interministerial coordination, but also close cooperative relationships with Non-State Actors (NSAs). Effective linkages and decentralization between national and local actors is also essential to ensure the practical policy implementation on the ground in all regions of each country. Given the international aspect of both crimes, bilateral and regional cooperation arrangements are necessary for cross-border investigations, prosecutions and the provision of assistance to, and return of, victims.

Cooperation between States, between institutions and the involvement of civil society are explicitly contemplated by the core international legal instruments related to trafficking in human beings and migrant smuggling, such as: UNTOC, the Migrant Smuggling and Trafficking Protocols, and the United Nations Office of the High Commissioner of Human Rights' (UNOHCHR) *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, among others. The Trafficking Protocol foresees cooperation between States specifically in the areas of assistance to and protection of victims, repatriation, prevention, information exchange and training.³⁰⁸ The Migrant Smuggling Protocol details cooperation between States in addressing, inter alia, maritime migrant smuggling, information sharing, training and prevention. UNTOC provides a legal basis for mutual legal assistance between States for the purpose of investigating and prosecuting transnational organized crime, including THB and SoM. Principle 11 of OHCHR's *Recommended Principles and Guidelines* provides a long list of recommended cooperative arrangements.

The importance of building and maintaining partnerships between ACP States, NGOs, the private sector and international organizations in the building of capacity, exchange of best practices and fostering coordinated response cannot be overstated.³⁰⁹ One of the challenges in organizing a holistic, multidisciplinary, multilevel governance structure (involving all stakeholders) is keeping it flexible enough to adapt to the constantly changing realities of both crimes.³¹⁰

308 See, Articles 8, 9, 10, Trafficking Protocol.

309 ACP-EU Dialogue, Seminar report, p. 7.

310 ACP-EU Dialogue, Seminar report, p. 7.

DI. National cooperation

Inter-agency cooperation in the field of anti-trafficking generally involves horizontal coordination mechanisms among national-level institutions. They generally fall into two types: (i) those engaged in law and policymaking, implementation, information exchange and monitoring and evaluation; and (ii) those engaged in case-focused cooperation, prosecution and referrals, involving local police, border police, NGOs, medical and social service agencies, among others. The latter are frequently referred to as national referral mechanisms.

A large majority of the ACP States receiving Action support have established a **national inter-agency coordinating body** of the first type.³¹¹ However, inter-agency cooperation among national-level stakeholders still poses many challenges in several ACP countries, for both those countries in which inter-agency mechanisms have been established, and for those without such bodies.³¹² In Papua New Guinea, despite the existence of the inter-agency national committees on trafficking in human beings, "the need of improved coordination, communication and cooperation between the different stakeholders involved in responding to THB" is considered a "major obstacle".³¹³ Also Solomon Islands has a national inter-agency committee in place, and the recent MoU between customs, police and immigration agencies marks significant progress in the Solomon Islands towards inter-agency cooperation. There is however still an "urgent" need for clarification of roles and responsibilities among stakeholders and information sharing.³¹⁴ In both Papua New Guinea and Solomon Islands, not all members of the committee actually participate, due to varying commitments and capacities among stakeholders.³¹⁵ Similarly, **participation** was noted as an issue in Swaziland, where, despite high-level membership, participation is mainly through delegated subordinates without decision-making power and who provide low quality inputs.

Finally, **overlapping mandates** among national institutions also impeded effective coordination, as identified in Guinea and Swaziland.³¹⁶ For example, in Swaziland, the combined THB/SoM Act established the Inter-ministerial Task Force for the Prevention

311 Vanuatu has not yet developed an inter-agency coordination mechanism in the fields of THB and SoM. Vanuatu BA, TA/018/2015, pp. 5, 6; Saint Vincent and the Grenadines BA, TA/033/2016, p. 5.

312 Solomon Islands TA, TA/022/2015, p. 25; Saint Vincent and the Grenadines TA, TA/033/2016, p. 5.

313 Papua New Guinea BA, TA/030/2016, pp. 10, 11 (indicating a lack of motivation and local ownership of the Committee by national stakeholders, as well as a lack of coordination, communication and cooperation within each institution).

314 Solomon Islands BA, TA/022/2015, p. 11.

315 Papua New Guinea BA, TA/030/2016, pp. 10, 11; Solomon Islands BA, TA/022/2015, p. 10.

316 See, e.g. Guinea BA, TA/036/2016, p. 24 (noting several structures with a similar mandate); Swaziland BA, TA/047/2016, p. 12.



TA intervention in Haiti: Strengthening interministerial cooperation on counter-THB

In 2015, the Government of Haiti established an interministerial committee responsible for improving coordination. However, the Committee lacks an internal regulatory structure, including concrete functions, and a meaningful plan for obtaining much needed technical and financial resources. The body has 12 members, 2 of which are representatives from human rights NGOs. Given the large number of stakeholders working on human trafficking and related issues in Haiti, coordinating their efforts remains a significant challenge. The situation is exacerbated by the lack of a common vision among groups and a difference in the language used to discuss the issue among State actors and civil society groups. Cooperation remains informal and weak.

The Committee submitted a request for technical assistance to the Action, precisely aiming to reinforce their knowledge and leadership: a scoping study on trafficking in Haiti along with an Action Plan for the committee were delivered. Additionally, the first National Conference on THB in Haiti was organized by the committee in June 2017 – with the support of the Action.

Source: Haiti BA, TA/049/2016

of Human Trafficking and Migrant Smuggling, tasked with, *inter alia*, coordinating policy. However, much of its mandate has been taken over by the Secretariat to Prevent People Trafficking and Migrant Smuggling, established within the Prime Minister's Office. The latter has become the effective entity on response, with the former playing a nominal coordinating role. Thus, the legislative framework needs to be aligned with the operational reality.³¹⁷

Article 11(6) of the Migrant Smuggling Protocol provides for States Parties to strengthen “cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.” Such **cooperation on the investigation and prosecution** of cases sees challenges as well as progress across ACP State beneficiaries. Despite the existence of three national multi-agency bodies in Swaziland “there is no mechanism to exchange information between law enforcement, border, immigration and other relevant authorities.”³¹⁸

317 Swaziland BA, TA/047/2016, p. 12

318 Swaziland BA, TA/047/2016, p. 23.



Different technical assistance interventions by the ACP-EU Migration Action tackle the issue of inter-agency cooperation. The MoU that was defined in the framework of the Saint Vincent and the Grenadines TA aims to enhance inter-agency cooperation within the framework of the already existing inter-agency Working Group and a National Task Force.³¹⁹ Ineffective coordination between national agencies impeded effective response to both crimes in the Dominican Republic, and was also identified as part of the country's request for technical assistance.³²⁰

Recommendations

National cooperation

- Create an inter-agency task force or cooperative mechanism to develop and implement law and policy on trafficking in human beings and migrant smuggling, where not already in existence, including the participation of CSOs;
- Establish as needed cooperation agreements and MoUs between diverse institutions to foster effective inter-agency collaboration on the development of THB and SoM policies and their implementation.

319 Saint Vincent and the Grenadines TA, TA/033/2016.

320 Dominican Republic BA, TA/029/2016, pp. 5–7, 12, 16.



D2. Cooperation between national level and local actors

Human traffickers and migrant smugglers prey on vulnerable populations, oftentimes those living in the poorest communities, far from urban centres and from access to essential services. They also frequently change routes, capitalizing on porous borders and areas with limited government presence. Effective **decentralization** is therefore necessary for ensuring a meaningful response to THB and SoM, including victim identification and assistance outside of urban centres and in remote areas. Doing so requires human and material resources, capacity-building among local-level actors – both government agencies and NSAs – and effective collaboration between entities working at the local level.

Vertical cooperation between different levels of the same institution (police, border police, prosecutors and line ministries) is essential for sharing information, developing model procedures, coordinating actions, and monitoring and evaluation. Local-level cooperation can be fostered at the national level, by ensuring its inclusion in national strategy and policy documents, by strengthening effective decentralized communication and coordination within key institutions, and by allocating sufficient resources to local actors within institutional budgets. For example, the very active child protection agency in Haiti has offices in all ten departments.³²¹ In this vein, the BA on Guinea noted the opportunity for local actors, such as the decentralized child protection system, to play a bigger, if not a leading role, in addressing subnational child trafficking, including prevention among vulnerable children.³²²

321 Haiti BA, TA/049/2016, p. 15.

322 Guinea BA, TA/036/2016, p. 13.

TA intervention in the Solomon Islands: Community consultations on THB

There are 150 active logging operations (camps) in the Solomon Islands. It is likely that exploitation occurs in every logging camp. Trafficking in human beings in the logging camps is visible – i.e. not a covert activity – with female children and young adults working as “house girls” (maids) who are then encouraged or coerced into a regular sexual relationship with a logger.

In the context of the TA intervention, a field trip to several communities in Choiseul Province was undertaken with the support of Save the Children. The goal was (a) to observe the environment where children and young adults are sexually exploited by loggers operating near the communities and (b) to gather information on the circumstances and factors surrounding what appears to be the almost inevitable trafficking of children once a logging operation has commenced. Workshops were organized, posing three questions concerning the communities’ experience with logging companies. The responses from the community members in all four locations were very similar and underlined an almost “common observation” on loggers and their impact upon village society and those observations or conclusions were mainly negative.

Source: Solomon Islands TA, TA/022/2015.

Recommendations

Cooperation between national-level and local actors

- Include subnational actors in national strategy and policy documents on THB and SoM to foster decentralization;
- National institutions should strengthen effective decentralized communication and coordination, and allocate sufficient resources to subnational actors from within institutional budgets;
- Capitalize on the existence of active decentralized bodies to mainstream issues pertaining to THB and SoM into the scope of work, including counter-trafficking committees at the provincial or municipal level.



D3. Cooperation between governments and CSOs

Both the Migrant Smuggling and Trafficking Protocols foresee **cooperation with civil society actors**.³²³ National coordination mechanisms for THB as well as for SoM should include governmental agencies as well as relevant members of civil society. The latter should be able to participate in the development of law and policy, and effectively contribute relevant data based on their work. While all inter-agency mechanisms in ACP States involve key governmental stakeholders, not all of them involve the participation of CSOs or other NSAs. The involvement of NSAs in national coordination mechanisms vary across ACP States from significant opportunities to cooperate to none, as governments with weak democratic institutions, unaccustomed to operating in a context of transparency and accountability, often remain distrustful of the active participation of civil society.

Limited cooperation between State actors and CSOs was noted in several ACP States. The participation of CSOs in national coordination efforts in the Dominican Republic was identified by both functionaries and CSOs as a key gap, and the BA underscored the need for a permanent coordination mechanism between State institutions and CSOs, as well as between the relevant CSOs.³²⁴ There remain no cooperative agreements between stakeholders in Trinidad and Tobago.³²⁵ In that vein, with the Action's technical assistance, an MoU was developed and agreed upon in Saint Vincent and the Grenadines by relevant stakeholders, including NSAs.³²⁶ In Samoa, efforts to tackle THB and SoM remain limited to the National Border Control Committee, which "will not engage with domestic agencies" responsible for labour, women's and children's rights, nor with NSAs.³²⁷

The limited number of NSAs with expertise in the topics of THB or SoM can be a hindering factor for effective participation to coordination mechanisms, as was identified in the case of the interministerial commission to combat trafficking in Angola.³²⁸

323 See, e.g. Article 6, Trafficking Protocol; Article 14(2), Migrant Smuggling Protocol.
 324 Dominican Republic BA, TA/029/2016, pp. 5–7, 12, 16, 17.
 325 Trinidad and Tobago BA, TA/046/2016, p. 5.
 326 Saint Vincent and the Grenadines BA, TA/033/2016, p. 5; Saint Vincent and the Grenadines TA, TA/033/2016, p. 8.
 327 Samoa BA, TA/048/2016, p. 10 (the TA to be provided will thus be unable to reach these critical sectors).
 328 Angola BA, TA/041/2016, p. 6.



On the other hand, Senegal's multi-agency anti-trafficking cell involves the open participation of NGOs and other stakeholders.³²⁹

In line with Article 6 of the Trafficking Protocol, CSOs often actively participate in **national referral mechanisms** (NRM), where they exist, and even where they do not, to provide shelter, medical and psycho-social services to victims. Although the Trafficking Protocol foresees CSO engagement in the provision of assistance, it is important to note that States are ultimately responsible for ensuring victims' access to assistance, protection and legal representation in line with international human rights standards. These issues are addressed more fully in the section on Victim Assistance and Protection.

Recommendations

Cooperation between governments and CSOs

- CSOs and other NSAs should be actively involved in the development of law and policy and its implementation, and should be active official members of inter-agency coordination mechanisms at the national level;
- Establish National Referral Mechanisms for victims of trafficking in countries where none exist, building on existing models for victims of domestic violence or child protection and including the participation of CSOs;
- Provide financial support to CSOs to foster the development and implementation of human rights-based anti-THB and anti-SoM strategies, and to support their work in providing assistance and protection to victims of trafficking and smuggled migrants;
- CSOs should be included, where relevant, in case management efforts, including as part of subcommittees on issues on which they have expertise.

329 Senegal Domestic Servitude BA, TA/042/2016, p. 10.



D4. Cross-border cooperation

Migrant smuggling is by definition a cross-border crime, and much of the situations of trafficking in human beings also involve an international element. Effective international cooperation is thus essential for combating both crimes. UNTOC's international legal framework establishes a clear mandate for cooperation between States Parties.

At its most basic level, international cooperation requires mutual commitment, a common understanding on response, harmonized legislation, equal partnerships, confidence and trust. Cooperation between sending and receiving countries is further necessary to establish legal standards, procedures, and the scope of and guidelines for concrete collaboration. It frequently involves information sharing on routes, embarkation and entry points, means of transportation, modus operandi and the particular forms of both crimes. In this regard, Article 10 of the Migrant Smuggling Protocol provides for State cooperation on information sharing related to, inter alia, "[e]mbarkation and destination points, as well as routes, carriers and means of transportation" used by criminal groups, the identities and modus operandi of criminal organizations, as well as legislative frameworks, measures and practices in combating SoM.

More concerted cooperation between States, involving joint operational activities between law enforcement and judicial authorities, is often required to effectively investigate and prosecute cross-border cases of trafficking in human beings and migrant smuggling. Several articles of UNTOC provide a legal basis for international cooperation for purposes of asset confiscation (Article 13), mutual legal assistance (Article 18), joint investigations (Article 19), transfer of criminal proceedings (Article 21), and law enforcement cooperation (Article 27).

As noted by participants in the ACP-EU Dialogue Seminar, existing transborder coordinating mechanisms must be strengthened. In supporting such joint ventures, "the focus should be on investing in the basics of policing (e.g. securing evidence, reporting)."³³⁰ These efforts should further address the need for bilateral cooperation agreements "to ensure the proper return of victims to the country of origin."³³¹ At the same time, ACP-EU Dialogue Seminar participants emphasized that the **best examples of joint cooperation do not focus on policing alone**. They highlighted as one example the cooperation agreement between Spain and Senegal in which Spain committed to fund projects related to farming as a sustainable alternative to migration. They recommended that cooperation agreements should include the social support chain

330 ACP-EU Dialogue, Seminar Report, p. 1.

331 ACP-EU Dialogue, Seminar Report, pp. 4, 5.

GOOD PRACTICE

Bilateral cooperation agreements providing funds for social support services to create meaningful alternatives to migration, in addition to supporting law enforcement efforts to stem irregular migration, have been viewed as a model practice among policymakers.

In 2006, Spain entered into a series of cooperation agreements with Senegal, the first of which foresaw hiring 26,000 workers directly and providing EUR 15 million annually over five years in development cooperation assistance to tackle irregular migration, in addition to support for police and border patrols and strengthening national institutions.

(NGOs) in addition to the law enforcement chain (police and justice).³³²

Participants at the ACP-EU Dialogue Seminar emphasized the importance of **South–South cooperation**, in addition to North–South engagement. South–South cooperation – an alternative to the more traditional development structures often characterized by a North–South flow of expertise – can prove to be integral to the provision of technical assistance in implementing the Migrant Smuggling and Human Trafficking Protocols. South–South cooperation and learning involves developing countries working together to find solutions to common development challenges. It promotes closer technical and economic cooperation among developing countries by, for instance, employing experts from the South, sharing best practices from the South, and building a sense of ownership of the development process. Additionally, it stimulates new partnerships, and in the process, creates a potentially more democratic form of global governance.³³³

Although South–South migration flows continue to grow relative to North–South flows, South–South cooperation on these issues remains in an early stage of development, and to date remains mostly linked to existing regional and subregional groupings.³³⁴ Similarly, South–South cooperation activities have been mostly bilateral in nature, or triangular, when South–South cooperation is supported by donors from the North. At the same time, a South–South approach in ACP States is emerging. For example, Swaziland benefits from several bilateral platforms with its neighbours, South Africa and Mozambique. These include meetings with representatives on: border control, policing and national defense. Given the volume of cross-border movement from Mozambique, a bilateral cross-border coordination group for child protection is also

332 ACP-EU Dialogue, Seminar Report, p. 13.

333 See generally, A. Tejasvi, *South-South Capacity Development: The Way to Grow? Capacity Development Briefs*, (2007). Available from www.openknowledge.worldbank.org/bitstream/handle/10986/9581/389160Capacity0D0Brief02001PUBLIC1.pdf?sequence=1&isAllowed=y, last checked 24 July 2017.

334 IOM, *Global Migration Trends Factsheet* (2015). Available from www.gmdac.iom.int/global-migration-trends-factsheet, last checked 31 July 2017.



being established. Authorities also engage INTERPOL for cross-border investigations. Despite these platforms, however, increased cross-border cooperation on SoM and related issues, such as irregular border crossing and corruption, is needed.³³⁵

In addition to cross-border cooperation on the law enforcement aspects of counter-trafficking, it is also essential for NRMs to engage with their counterparts – government and non-government actors – in other countries to address the needs of **victims** identified abroad, and to collaborate closely to ensure their safe return and reintegration. The term Transnational Referral Mechanism (TRM) refers to international cooperation between NRMs.

Guinea entered in a bilateral cooperation agreement with Mali specifically relating to child trafficking, which provides a mechanism for cross-border cooperation between the two States. However, it does not foresee granting residency stays for foreign victims and reinsertion assistance for victims identified abroad has never been offered.³³⁶

On the other hand, the Solomon Islands has engaged in joint investigations, resulting in the identification of victims of forced labour trafficking in logging camps. However, ineffective information sharing between the agencies involved impeded prosecution of the offenders.³³⁷

Importantly, the P2P Exchange and ACP-EU Dialogue Seminar both offered opportunities for exchange on best practices and **informal networking** for future coordination between transit, origin and destination countries, as contact information was shared between representatives from several countries.³³⁸

335 Swaziland BA, TA/047/2016, pp. 21, 23.

336 Guinea BA, TA/036/2016, p. 19.

337 Solomon Islands BA, TA/022/2015, p. 11.

338 ACP-EU Dialogue, Seminar report, p. 1.



Recommendations

Cross-border cooperation

- Adopt bilateral agreements to prevent and respond to trafficking in human beings and migrant smuggling, and to ensure the rights and protection of trafficked persons and smuggled migrants;
- Develop cooperation arrangements to facilitate the rapid identification of trafficked persons and smuggled migrants, including the sharing and exchange of information in relation to their nationality and right of residence;
- Develop cooperation agreements to strengthen cross-border investigations into the crimes of migrant smuggling and trafficking in human beings;
- Engage in joint investigations grounded in mutual legal assistance frameworks;
- Support cooperation between non-governmental organizations and other civil society organizations in countries of origin, transit and destination;
- Where NRMs exist, they should engage with TRMs or directly with other NRMs to provide comprehensive assistance and the return and rehabilitation of trafficking victims;
- Promote closer technical and economic South-South cooperation, in addition to North-South cooperation, by for instance, employing experts from the South, sharing best practices from the South, and building a sense of ownership of the development process;
- International cooperation agreements should extend beyond law enforcement to encompass sustainable alternatives to migration and social support systems.



D5. Regional and international cooperation

Regional platforms for cooperation and information sharing have been used to bring together national taskforces around the world to positive effect. Participants at the P2P Exchange in Guyana underscored the potential utility of regional platforms, which can be capitalized on for strengthened border control and the development of regional guidelines, such as on victim identification, referrals and returns. Participants at the ACP-EU Dialogue Seminar recommended furthermore establishing regional mechanisms for cooperation between judicial authorities.³³⁹

Several P2P participants expressed a preference for working with regional bodies, rather than international ones, as they felt more “ownership” over such platforms, which further strengthen South–South cooperation. Existing regional platforms can be used as models for those regions without such platforms. Several regional organisms maintain strong platforms for multilateral engagement. Some examples that were noted in the Actions’ work are mentioned below, a more elaborate overview can be found under Section 1.

Africa

Swaziland benefits from the protocols and strategies developed by the South African Development Community (SADC), such as: the Protocol on the Facilitation of Movement of Persons, the Protocol on Mutual Legal Assistance in Criminal Matters, and the 10-year Strategic Plan of Action on Combatting Trafficking in Persons, Especially Women and Children, an SADC THB database and the annual SADC Trafficking Prosecutors Meeting.³⁴⁰ SADC’s 10-year Strategic Plan, prioritizing the issue of trafficking in human beings, both prompted and provided the underlying framework for Angola to address the crime.³⁴¹ Guinea is party to a regional, multilateral cooperation agreement through the Economic Community of Central African States (ECCAS) on combatting trafficking in human beings in Central Africa.³⁴²



GOOD PRACTICE

The Pacific Transnational Crime Network (PTCN) provides proactive operational criminal intelligence and investigative capability to combat transnational crime in the Pacific through a multi-agency and regional approach, involving police, customs, immigration, and links to other agencies. It comprises 18 Transnational Crime Units (TCUs) in 13 Pacific countries, including two in Vanuatu and one in Solomon Islands. The PTCN involves additional relevant agencies, including: the Pacific Islands Forum for Regional Security Committee, Oceania Customs Organization, Pacific Immigration Directors Conference, Pacific Islands Forum Fisheries Agency, Joint Inter Agency Task Force–West, Pacific Patrol Boat Program and Financial Intelligence Units.

The Pacific Transnational Crime Coordination Centre (PTCCC), based in Apia, Samoa, supports the operational activities of the TCUs and contributes to the identification of current and emerging risks in the region. TCUs are responsible for: undertaking intelligence-led investigations and proactive issue-specific development projects relating to transnational crime, producing high quality tactical law enforcement intelligence; analysing information pertaining to transnational crime, and implementing a comprehensive training plan for the TCU, among other duties. They are also responsible for information exchange between each country and the PTCCC, and thus have the potential to become national information hubs on transnational trafficking in human beings and migrant smuggling and an important link to regional capacity-building opportunities.

339 ACP-EU Dialogue, Seminar report, p. 6.

340 Swaziland BA, TA/047/2016, pp. 11, 12.

341 Angola BA, TA/041/2016.

342 See, Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa.



Pacific

Solomon Islands, Vanuatu, Samoa and Papua New Guinea are members of the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*, which, inter alia, promotes information sharing, cross-border law enforcement, strengthening national legislation, raising public awareness, and ensuring protection and assistance to victims with counterparts in the region.³⁴³ As an example of good practice, two regional law enforcement initiatives are in place in the Pacific: the Pacific Transnational Crime Coordination Centre (PTCCC) and its component, the Pacific Transnational Crime Network (PTCN). Such regional partnerships could be engaged in strengthening police capacity, including by designating the TCU as a single point of contact, or information hub, to receive THB-related information with the aim of recording and sharing the information with national police and immigration services.³⁴⁴

Caribbean

Despite the absence of formal cooperation between law enforcement at the national level, Trinidad and Tobago cooperates with regional bodies including the Joint Regional Communication Centre (JRCC), and CARICOM IMPACS, as well as international bodies, such as INTERPOL.³⁴⁵ Furthermore, the **Caribbean Migration Consultations (CMC)** was established in 2016 with the aim of creating a non-binding forum to foster open discussions on issues pertaining to migration among member States, to develop consistent, coordinated migration management in the region, to coordinate information exchange and the sharing of good practices and to develop policies with a rights-based approach. The first meeting was hosted by Trinidad and Tobago.

Recommendations

International and regional cooperation

- Elaborate regional and subregional treaties on THB and SoM, in line with the Trafficking and Migrant Smuggling Protocols and relevant international human rights standards;
- Engage regional organizations/platforms for cooperation to strengthen national stakeholder capacity;
- Utilize existing regional mechanisms to establish inter-agency information hubs or single points of contact on SoM and THB;
- Establish a cooperative mechanism for the confiscation of the proceeds of THB and SoM. This cooperation should include the provision of assistance in identifying, tracing, freezing and confiscating assets connected to THB and SoM;
- Establish regional mechanisms for judicial cooperation on investigations and judicial processes, through common prosecution methodologies and joint investigations;
- International cooperation agreements should extend beyond law enforcement to encompass sustainable alternatives to migration and social support systems.

343 See, Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Available from www.baliprocess.net. See also, Vanuatu BA, TA/018/2015, p. 10 (noting that its membership in the Bali Process constitutes an important opportunity to raise awareness, as well as to benefit from regional strategies and cooperation); Samoa BA, TA/048/2016, p. 10 (noting that its membership serves as an opportunity to increase its capacity on both criminalization and victim protection, and as a platform for regional information-sharing).

344 Solomon Islands TA, TA/022/2015, pp. 27, 28.

345 Trinidad and Tobago BA, TA/046/2016, p. 10.



E. Victim protection and assistance

The Protocols to UNTOC establish a framework for ensuring protection and rights for trafficking victims and smuggled migrants, from their identification throughout the criminal justice and assistance process. Attention to the specific needs of individuals due to their trafficking or smuggling experience, as well as characteristics such as gender, age or ethnicity are essential. Only when victims' rights are properly safeguarded and their immediate needs are addressed can they effectively participate in decisions about their care and future options, including whether to accept certain forms of assistance, whether to participate in criminal proceedings and whether to seek a legal remedy. Indeed, the failure to provide victims with essential services and protection, as set forth in the Trafficking Protocol often renders them vulnerable to secondary traumatization, additional human rights violations by State actors and re-trafficking. International best practice hence places **victims at the centre of the response process**.

The professional and appropriate treatment of trafficking victims and smuggled migrants by law enforcement and other stakeholders has an important bearing on their willingness to cooperate with investigations and prosecutions.³⁴⁶ This requires training on the rights of smuggled migrants and trafficking victims, screening and interview techniques, and ensuring the full range of protection and assistance.

EI. Victims' rights to assistance and protection

Significantly, one of the differences between the Trafficking and Migrant Smuggling Protocols relates to the differences in the rights provided to victims of trafficking in contrast to smuggled migrants. As detailed below, Article 6 of the Trafficking Protocol provides for a comprehensive set of assistance for victims of trafficking, while Articles 5 and 16 of the Migrant Smuggling Protocol calls for the protection of the human rights of smuggled migrants and emphasizes the prosecution of migrant smugglers, rather than the prosecution of smuggled migrants for crimes related to their being smuggled. It precludes their prosecution for having been smuggled. Yet, as described above, it is often difficult to distinguish between smuggled migrants and trafficking victims, as after contracting the services of smugglers, smuggled migrants face multiple human rights violations, including human trafficking and other forms of exploitation.

³⁴⁶ See, Trinidad and Tobago BA, TA/046/2016, p. 19; Vanuatu TA, TA/018/2015, p. 20; Solomon Islands TA, TA/022/2015, p. 31.



IOM's Transnational Action to Support Victims of Trafficking

(TACT) project works to enhance transnational referral systems (TRMs) through a counter-trafficking directory and an online platform with practical tools, such as standard operating procedures. The focus of the project is to contribute to the safe return and reintegration conditions of victims of trafficking in human beings returning from France, Greece, Italy, Poland and Spain to Albania, Morocco and Ukraine. By building the capacity of national actors in Albania, Morocco and Ukraine, the project aimed at ensuring that identification, referral and assistance mechanisms are set up, including for victims who need dedicated support upon return in their countries of origin.

More info: www.iomfrance.org/tact/the-tact-project.html.

Thus, there will be some overlap in the treatment of victims of trafficking and smuggled migrants. Where such overlaps exist, they are explicitly noted below.

Article 6 of the Trafficking Protocol provides for State Parties to assist victims of trafficking "in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society." Indeed, as mentioned in the previous section, the establishment of **national coordination and referral mechanisms** (NRMs), and the elaboration of protocols and standard operating procedures to effectively provide for the rights and needs of victims are crucial tools for ensuring a victim-centred approach to combating trafficking in human beings, including preventing the phenomena of re-trafficking.³⁴⁷ Civil society organizations should form a part of NRMs.

Transnational Referral Mechanisms (TRMs) should be used to link different NRMs. TRMs are cooperative agreements for cross-border assistance and/or transfer of identified or potentially trafficked persons. In practical terms, a TRM functions as an operational framework linking the stakeholders from two or more

countries involved in identification, referral, assistance, repatriation and monitoring. Like NRMs, TRMs define clear roles for each stakeholder, along with procedures to follow, to ensure protection of the victims' human rights. TRMs have also been developed to ensure safe return and social reintegration of victims of trafficking.³⁴⁸

³⁴⁷ See, for example, the screening and referral mechanisms for mixed-migration arrivals as recommended by UNCHR's 10-point plan. Available from www.unhcr.org/publications/manuals/5846d0207/10-point-plan-action-2016-update-chapter-5-mechanisms-screening-referral.html, last checked 29 June 2017.

³⁴⁸ ACP-EU Dialogue, Seminar report, p. 16 (noting the RAVOT-EUR project between Belgium, the Netherlands and Hungary). ICMPD has also developed *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe*. Available from www.icmpd.org/our-work/capacity-building/trafficking-in-human-beings/publications/guidelines-for-the-development-of-a-transnational-referral-mechanism-for-trafficked-persons-in-europe-trm-eu, last checked 25 June 2017.



Upon identification as a presumed victim of trafficking, sufficient resources and facilities must be available to secure the victim's physical and psychological integrity, pending confirmation of their eligibility to receive further support. Interventions by stakeholders must prevent further trauma, and provide necessities such as food, shelter, medical care and psychological counselling. Assistance must also move beyond short-term, urgent needs and focus on longer-term issues such as a means of income, labour reinsertion, longer-term medical needs and decisions related to possible safe return to communities of origin.

One of the most significant gaps revealed by the BAs and TAs was the lack of available protection and services afforded to victims in ACP States, as prescribed by international standards. Several ACP countries either lack a **formalized multisectoral referral system** for the provision of assistance to trafficking victims, or the existing system is not yet fully operational.

This was noted for example in Guinea, where despite a formal mandate to provide protection and assistance to victims, the relevant institutions do not provide assistance in a systematic manner. Only national victims are provided lodging and meals and no legal provision formally ensures foreign victims the right to protection and assistance. Consequently, CSOs assist victims through informal referrals on an ad hoc basis. The relevant governmental institutions do not engage in monitoring or follow up to ensure quality control. The government does not provide financial or other support to the CSOs so engaged, while government staff have personally aided victims in the absence of formal support.³⁴⁹

Likewise, in Haiti, in view of the lack of formal referral network for victim assistance, NGOs are currently working as frontline actors. They however need training to work within the context of a decentralized, standardized official referral and case management system.³⁵⁰ A lack of understanding of the definition of THB in Haiti has led to a conflation between vulnerability and trafficking in human beings, and more specifically between *restaveks* and trafficking in human beings, leading to a tendency to “see trafficking everywhere”.³⁵¹ Furthermore, stakeholder efforts in Haiti remain concentrated on the provision of protection and assistance to vulnerable children and minor victims of trafficking, and on prosecuting cases of child trafficking, to the detriment of other forms of trafficking in human beings and adult victims. Very few

349 Guinea BA, TA/036/2016, pp. 18, 19 (further noting that CSOs and intergovernmental and international non-governmental organizations provide return and reintegration assistance to victims identified abroad. However, they do not offer the same standard of services). See also, Angola BA, TA/041/2016, pp. 5, 6 (noting a need to strengthen interministerial coordination).

350 Haiti BA, TA/049/2016, pp. 9, 10, 15, 16, 19.

351 Haiti BA, TA/049/2016, p. 8.



stakeholders have the capacity to assist adult victims.³⁵²

Considering the absence of any identified victims, Samoa has not yet developed any programme to deliver services to trafficking victims.³⁵³ The National Action Plan in the Dominican Republic does not contemplate the provision of assistance and services to victims.³⁵⁴

Protection of victims of trafficking under the Trafficking Protocol (Art. 6)

- Protection of privacy and identity;
- Providing information on court/administrative procedures;
- Measures for the physical, psychological and social recovery, specifically;
 - Housing
 - Counselling and information
 - Medical, psychological, material assistance
 - Employment, education, training opportunity;
- Appropriate provisions according to age, gender, special needs;
- Provide for physical safety
- Possibility for obtaining compensation.

In the Solomon Islands, existing services include a hotline, a 24/7 safe house and limited medical assistance, but there are no trafficking-specific services for victims. Both State actors and NSAs remain in need of support, guidance and monitoring to ensure that adequate assistance is provided to victims of trafficking.³⁵⁵

Under Article 6 of the Trafficking Protocol, provisions to ensure the protection of VOTs are defined (see box). However, gaps remain in several ACP States.

Some highlights below:

The lack, or insufficient number, of **shelters** for trafficking victims or stranded, smuggled migrants was noted in several ACP States. Given the prevalence of female and child victims, there is an absence of facilities and shelters for male trafficking victims in Papua New Guinea and in the Solomon Islands, and assistance to male victims is provided in an ad hoc manner.³⁵⁶ The Dominican Republic needs adequate shelters that can provide specialized assistance to, and separate facilities for, girls, boys and adolescents of both sexes. It further requires

352 Haiti BA, TA/049/2016, pp. 6, 8, 10, 18 (noting that adult victims faced age discrimination in this regard).

353 Samoa BA, TA/048/2016, p. 12.

354 Dominican Republic BA, TA/029/2016, p. 12.

355 Solomon Islands BA, TA/022/2015, pp. 10, 12, 15.

356 Papua New Guinea BA, TA/030/2016, p. 11; Solomon Islands BA, TA/022/2015, p. 10.



strengthened coordination among service providers to ensure a holistic response.³⁵⁷ In Guinea, shelter and assistance were only provided to nationals, while foreign victims had no legal provision formally ensures them right to protection and assistance.

Victims have a **right to a remedy**, including compensation.³⁵⁸

As set forth in the Trafficking Protocol, victims have a **right to information** on the types of services and support available to them, their role in connection with criminal proceedings and how to obtain protection in the event of renewed threats to their safety. Victims may also have urgent legal or administrative needs, including: obtaining necessary documentation, such as residency permits, for themselves and possibly for family members;³⁵⁹ family reunification and/or separation or divorce; and, the best interests of their children under the current circumstances.

Related to the right to information, VOTs have a **right to a reflection period**, enabling them to make autonomous informed decisions concerning their potential cooperation with the police and participation as a witness in criminal proceedings, considering the implications of their decision in terms of their personal anonymity, physical safety, and safety of their families.³⁶⁰ In any case, the availability of shelter and assistance should not be made contingent on the willingness of the victims to give evidence in criminal proceedings.

Several factors can impede the **right to legal representation**. For example, in Haiti, victims of trafficking must thus pay out-of-pocket for legal representation if they decide to testify or seek damages, whereas VOTs have a right to financial assistance. Additional obstacles impede their **access to justice**, including the long distances they must travel to file complaints, poor transportation, limited police presence (1 per 10,000 persons), and the fact that police have no vehicles and that police stations are located only in urban centres.³⁶¹ Although by law victims are allowed legal representation by CSOs, no instances were identified in which this legislative provision had been invoked. No legal representation has been provided to child victims.³⁶²

357 Dominican Republic BA, TA/029/2016, p. 17.

358 The BAs and TAs provided limited information on the existence and effectiveness of legislative provisions regarding trafficking victims' right to a remedy.

359 Article 7(1) of the Trafficking Protocol requires States to consider "adopting legislative or other appropriate measures that permit victims of trafficking in human beings to remain in its territory, temporarily or permanently, in appropriate cases," and giving "appropriate consideration to humanitarian and compassionate factors".

360 The THB/SoM law in Swaziland provides for them to be summonsed to provide evidence. Swaziland BA, TA/047/2016, p. 15 (citing Article 51 of the People Trafficking and People Smuggling (Prohibition) Act 2009).

361 Haiti BA, TA/049/2016, p. 9.

362 Guinea BA, TA/036/2016, pp. 17, 19.



The Trafficking Protocol furthermore sets forth **fair trial rights** for VOTs. These rights are also ensured by the International Covenant on Civil and Political Rights (ICCPR). Confidentiality and in-court protective measures, such as *in camera* hearings and being accompanied by a support person are among best practices for victims during legal proceedings.

At the same time, out-of-court protection should be provided to victims and witnesses during the length of legal proceedings and possibly beyond.³⁶³

Article 7 of the Trafficking Protocol requires States to consider "adopting legislative or other appropriate measures that permit victims of trafficking in human beings to remain in its territory, temporarily or permanently, in appropriate cases," taking into consideration "humanitarian and compassionate factors". Trafficked persons should not be held in immigration detention centres, other detention facilities or vagrant houses, especially child victims. In Samoa, national legislation does not provide for **temporary stays** or the re-entry of trafficking victims (nor smuggled migrants), even for the purpose of collaboration with law enforcement.³⁶⁴ The law in Guinea does not foresee granting residency stays for foreign victims, who tend to be repatriated immediately with no follow-up undertaken once they cross the border. In addition to violating victims' rights under the Protocol, their immediate deportation subjects them to possible *refoulement*. Conversely, reinsertion assistance for victims identified abroad has never been offered.³⁶⁵ Irregular migrants are automatically deported without any investigation in Vanuatu.³⁶⁶ In Gabon, reintegration support provided to assist returning child victims in their country of origin does not reach the victims due to corruption, increasing the risk of re-trafficking.³⁶⁷

The **non-imposition of criminal liability** on victims of trafficking in human beings is of fundamental importance, and encompasses charges for related crimes. Due to lack of awareness of the law in Papua New Guinea, victims of trafficking are not being identified and "are still being wrongfully charged for criminal offences."³⁶⁸

363 Specifically, information on victim and witness protection was largely absent from most BAs. But see, Senegal Mapping TA, TA/027/2016, p. 38 (noting the lack of any measures concerning the protection of victims and witnesses within the scope of legal proceedings); and, Dominican Republic BA, TA/029/2016, p. 12 (noting that the National Action Plan foresees the provision of protection to trafficking victims).

364 Samoa BA, TA/048/2016, p. 8.

365 Guinea BA, TA/036/2016, pp. 18, 19 (noting anecdotally one instance in which 48 presumed victims were imprisoned for two days in potentially close proximity with their traffickers). In contrast to Guinea, in the Solomon Islands, internal cases of sexual exploitation receive less attention than cases involving the labour exploitation of foreign nationals.

366 Vanuatu TA, TA/018/2015, p. 9.

367 ACP-EU Dialogue, Seminar Report, pp. 4–5.

368 Papua New Guinea BA, TA/030/2016, p. 10.



With specific regards to **smuggled migrants**, Article 5 of the Smuggling Protocol states that “Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of [migrant smuggling].” Protection and assistance measures are described in Article 16 of the Smuggling Protocol. However, also here gaps remain at the national level. Conflicting with the single THB/ SoM law, which precludes the criminal liability of victims of trafficking and smuggled migrants, Swaziland’s Immigration Act subjects smuggled migrants to prosecution for illegal entry, and provides for non-criminalization only for a limited number of offences.³⁶⁹ Furthermore, smuggled migrants are either offered the same protection and services as victims or trafficking, or they are charged with illegal entry and immediately deported, potentially violating the principle of *non-refoulement*.³⁷⁰ In Trinidad and Tobago, smuggled migrants are prosecuted using the Immigration Act, which “expressly targets the smuggled migrant and not the smugglers as the former is unambiguously charged for entering at unofficial ports of entry as well as employing the use of fraudulent or false documentation to gain entry.”³⁷¹ Smuggled migrants who are not asylum seekers or identified as trafficking victims are prosecuted and deported; “stakeholders were unaware of the rights of smuggled migrants.”³⁷²

Protection of smuggled migrants under the Smuggling Protocol (Art. 16)

- Protect the rights of smuggled migrants, in particular right to life, right not to be subjected to torture and other cruel, inhuman, degrading treatment or punishment;
- Protect smuggled migrants against violence inflicted upon them for being smuggled;
- Provide assistance to smuggled migrants whose rights and safety are endangered;
- Provide for the special needs of women and children;
- Comply with Vienna Convention on Consular Relations in the case of detention.



To address all of these gaps, **capacity-building** is needed for both State actors as well as NSAs in victim identification, screening and in the provision of assistance to diverse categories of victims of trafficking and smuggled migrants.³⁷³ In several States, few or no NSAs have the capacity to offer specialized assistance to victims of trafficking.³⁷⁴ Although no NSAs have dedicated expertise in working with victims of trafficking in human beings in Haiti and Saint Lucia, many expressed a strong willingness and interest in doing so, requesting training to ensure that they have the administrative, technical and financial capacity to ensure protection and access to justice for victims.³⁷⁵

The **allocation of financial resources** is necessary to ensure the actual provision of services, but this is often not foreseen. While the recent THB law in Haiti foresees the provision of legal and humanitarian assistance to victims, no funds were provided for their implementation. In practice, in many ACP States, NSAs and intergovernmental organizations often step in to fill gaps in the provision of assistance and services for victims, with little if any support from the national budget. This does not relieve States of their international obligation to regulate, and provide financial support for, such assistance. As another example, CSOs providing assistance to trafficking victims and smuggled migrants in the Dominican Republic do not receive financing from the State.³⁷⁶

As mentioned in the previous section, international best practice calls for the creation of trust funds to support victim rehabilitation and remedies, funded through the confiscation of criminal proceeds. For example, the Council of Europe Convention on Action against Trafficking in Human Beings provides that:

Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the [confiscation of assets].³⁷⁷

369 Swaziland BA, TA/04/2016, pp. 14–17 (citing the Department of State Trafficking in Persons Report involving a case in which this led to the deportation of six trafficking victims in 2011).

370 Swaziland BA, TA/047/2016, pp. 18, 19.

371 Trinidad and Tobago BA, TA/046/2016, p. 9 (noting that provisions within Trinidad and Tobago’s Immigration Act that could be used to prosecute migrant smugglers have never been applied).

372 Trinidad and Tobago BA, TA/046/2016, p. 10.

373 See, e.g. Saint Lucia BA, TA/040/2016, pp. 10, 12; Haiti BA, TA/049/2016, pp. 9, 10, 15, 16, 19.

374 Samoa BA, TA/048/2016, pp. 5, 14 (noting the absence of any NSAs working on THB and SoM issues and the existence of only a few NSAs that work in the fields of gender-based violence and labour rights); Papua New Guinea BA, TA/030/2016, p. 12 (noting the absence of NSAs with trafficking-specific expertise).

375 Haiti BA, TA/049/2016, p. 9 (noting that numerous NGOs work on child protection issues, but none is focused solely on trafficking in human beings); Saint Lucia BA, TA/040/2016, pp. 8, 17 (noting the absence of a hotline).

376 Dominican Republic BA, TA/029/2016, p. 17.

377 Council of Europe, Convention on Action against Trafficking in Human Beings, CETS 197, 2005, Article 15(4).



Recommendations

Victims' rights to assistance and protection

- Establish NRM and TRM;
- Ensure that trafficked persons and smuggled migrants are effectively protected from harm, threats or intimidation by traffickers and associated persons, including through non-disclosure of identity;
- Protect, as appropriate, the privacy and identity of victims of trafficking, including child victims, and ensure that measures are taken by all relevant actors to avoid the dissemination of information that could lead to their identification;
- Victims of trafficking should be provided with appropriate accommodation, protection and psycho-social and medical assistance, in addition to other services; smuggled migrants who are victims of crimes should be provided with appropriate assistance based on their needs;
- Ensure adequate and appropriate training, in particular legal and psychological training, for persons working with victims of trafficking; specialized training should be provided for those working with child victims;
- Ensure that victims of trafficking, and smuggled migrants who were victims of other crimes, have an enforceable right to fair and adequate remedies, including the means for rehabilitation. These remedies may be criminal, civil or administrative in nature. Ensure that legislation enables victims to seek remedies and receive payments of such from outside of the country;
- Provide information and legal assistance to enable trafficked persons to access remedies. The procedures for obtaining remedies should be clearly explained in a language that the trafficked person can understand;
- Establish a compensation fund for victims of trafficking and the use of confiscated assets to finance such a fund;
- Amend THB and immigration legislation to provide temporary, renewable stays for identified victims of trafficking, and ensure that arrangements are made to enable trafficked persons to remain safely in the country in which the remedy is being sought for the duration of any criminal, civil or administrative proceedings;
- Ensure that the protection of trafficked persons is built into anti-THB and anti-SoM legislation, including protection from summary deportation or return;



- Ensure that victims of trafficking and smuggled migrant victims of crimes, including children, are not subjected to criminal procedures or sanctions for related offences;
- Ensure the fulfillment of fair trial rights to victims of trafficking in human beings, as set forth in the Trafficking Protocol and the ICCPR;
- Ensure that criminal codes and legislation allow for improved investigation techniques that are not dependent upon victim testimony, including those which include digital evidence, undercover work and joint actions with other countries;
- Amend criminal procedural codes that do not provide protection for witnesses and victims;
- Ensure that legislation allows for various types of testimony that protect the identity of victims, such as via video conferencing.



E2. Gender, age and other characteristics of vulnerability

This topic is treated more in depth under Cross-cutting Issue 1, but deserves some specific attention when it comes to victim assistance. Women and girls, as well as children generally, remain the most vulnerable to trafficking in human beings, including in ACP countries, such as: Haiti, Senegal, Guinea, Angola and the Dominican Republic.³⁷⁸ A **gender- and child-focused lens** must be applied in order to address the specific needs of victims: men, women, boys and girls.

Due to their increased vulnerability, trafficked children must be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The **best interests of the child** must be a primary consideration in all actions concerning trafficked children or smuggled migrant children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.

Institutionalized children and returning migrant women provide two examples of categories of persons in ACP States whose specific needs must be considered. As underscored at the ACP-EU Dialogue Seminar, of the 8 million institutionalized children around the world, more than 80 per cent of them are not actually orphans.³⁷⁹ “Institutionalized children experience poverty and discrimination, neglect and abuse, lack of access to basic healthcare, education and social services. Parents are deceived, coerced or paid to give up their children.”³⁸⁰ In Haiti, children remain at a high risk of trafficking due to several factors: the large numbers of institutionalized and street children, the practice of domestic workers, or *restaveks*, and the significant internal and cross-border movement of unaccompanied minors.³⁸¹

378 Dominican Republic BA, TA/029/2016, p. 9 (citing studies that indicate the Dominican Republic is a major source country of trafficked women); Angola BA, TA/041/2016, p. 6 (noting additionally the lack of data on the incidence of trafficking in human beings, prosecution and victim support).

379 See, Lumos, *Children in Institutions: The global picture*. Available from www.wearelumos.org/resources/children-institutions-global-picture/, last checked 13 August 2017.

380 ACP-EU Dialogue, Seminar Report, p. 16.

381 Haiti BA, TA/049/2016, pp. 5, 8, 13 (noting that of the 32,000 children currently institutionalized in Haiti, only 20% are actual orphans, and that orphanages are often implicated in trafficking in human beings).



Even where specific mechanisms exist to address the particular rights and needs of women migrants, the scope of assistance could be widened and methodologies revised. For example, in the Dominican Republic, the inter-agency committee is charged with protecting the rights of migrant women. They focus particularly on victims of trafficking, but did not work with returned women migrants, did not take into account all of the psycho-social and structural factors faced by migrant women in countries of transit, origin and destination, and the fact that migrant women face a myriad of other human rights violations in addition to human trafficking.³⁸²

Recommendations

Gender, age and other characteristics of vulnerability

- Adopt a victim-centred approach in addressing the needs of trafficking victims and smuggled migrants who are victims of crimes;
- Ensure the non-discriminatory provision of services, to nationals and non-nationals, adults and children, women and men;
- Ensure that all agencies apply the best interest of the child standard when working with child victims;
- Harmonize legislation to define children pursuant to international standards and prohibit child and early marriage.

382 Dominican Republic BA, TA/029/2016, p. 15.



E3. Cultural and social norms

At the same time, the cultural norms and specific needs of ethnic minorities or other categories of persons, including linguistic differences, must be considered when providing accommodation and assistance to victims of trafficking and smuggled migrants (see further in Cross-cutting Issue 1: Gender, age and cultural norms).

Many traditional cultural and social norms perpetuate gender and other inequalities, thus fostering vulnerability to exploitation. Various forms of *confiage* are practiced in several ACP States. In Haiti and Nigeria, for example, people place their children with family members or strangers, hoping for them to have a better life. In some communities in Haiti, it is common to sell children or to send them to work in the capital as domestic servants, referred to as *restaveks*.³⁸³ In Solomon Islands, no minimum age for marriage exists in customary law, which:

enables marriage of girls under the age of 15 years and although the child brides were not and could not be legally married, they were still being adversely affected by the traditional definition of marriage, wherein husbands have a “right” to treat their wives however they choose.³⁸⁴

In Guinea, Senegal, Haiti and Angola stakeholders need to be sensitized in order to distinguish between the customary practice of *confiage* and trafficking in human beings. In addition to awareness-raising, realistic alternative options must be provided to constitute effective prevention.³⁸⁵

Cultural and social norms also have a significant bearing as to whether stakeholders recognize trafficking in human beings and as to whether victims come forward to seek assistance and justice. In the Solomon Islands, the lack of services for victims, customary practices involving traditional notions of “retaliation” and “compensation”, in which women and girls must comply with the decisions of elder male family members, and the vested economic interests in the sectors generating trafficking in human beings (logging, mining and fishing), all “mitigate against victims reporting their experience of labour or sexual exploitation.”³⁸⁶ Similarly, in Samoa, female and younger household members are “obliged by custom to follow the direction of older

383 Haiti BA, TA/049/2016, pp. 6, 13.

384 Solomon Islands TA, TA/022/2015, p. 13.

385 Guinea BA, TA/036/2016, p. 17 (citing a case involving a local Imam that was mediated by local authorities rather than processed through the criminal justice system); ACP-EU Dialogue, Seminar Report, p. 14.

386 Solomon Islands BA, TA/022/2015, p. 10.



males. Incest and domestic violence also occur in Samoa. Culture can mitigate against victims reporting their experience of labour or sexual exploitation.”³⁸⁷

As recommended at the ACP-EU Dialogue Seminar, despite the tendency to invest mostly in law enforcement, the “best investments are made in social services and outreach workers because they are in direct contact with the victims.” One specific recommendation in this regard is the use of cultural mediators to bridge the gap between law enforcement and victims, as victims, including children, often trust smugglers more than police and protection systems.³⁸⁸

As suggested in the TAs of several ACP States, increased attention should be paid to working with local, customary and traditional leaders to increase their sensitivity to gender issues, and to raise their awareness on the discrimination inherent in some traditional social norms, and their links to human rights violations and serious crimes. Local leaders have an important role to play with respect to prevention, as well as in ensuring access to justice for victims who access informal justice mechanisms at the community level.

Recommendations

Cultural and social norms

- Employ cultural mediators as part of NRMs or within law enforcement agencies to build trust with trafficking victims and smuggled migrants to ensure the effectiveness of protection and assistance, and to foster information sharing with investigation and prosecution authorities;
- Involve leaders from diverse communities, including marginalized groups, ethnic minorities, to participate in prevention and response strategies, in their design and implementation;
- Work with village-level and customary leaders as an untapped source of information on trafficking- and smuggling-related phenomena, and as targets for awareness-raising on the links between traditional practices and trafficking in human beings, exploitation and gender discrimination.

387 Samoa BA, TA/048/2016, p. 11.

388 ACP-EU Dialogue, Seminar Report, p. 16.



CROSS-CUTTING ISSUE 4

Human rights protection for victims of trafficking, vulnerable and smuggled migrants

Most ACP States have ratified the **core international human rights conventions**, such as the International Convention on Civil and Political Rights (ICCPR), the Torture Convention, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of Racial Discrimination (CERD) and others. However, there are significant exceptions. Neither Haiti, Saint Lucia, nor Solomon Islands have ratified the ICCPR, and Guinea is not party to the CRC. Furthermore, several ACP States are not party to the Torture Convention. These include: Papua New Guinea, Saint Lucia, Samoa, Solomon Islands and Trinidad and Tobago; Angola has signed, but not yet ratified it.

Strikingly, only 3 of the 13 ACP States that are the subject of this report have signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, that emphasizes the connection between migration and human rights. They are: Haiti, Senegal and Saint Vincent and the Grenadines. With regards to the 1951 Refugee Convention (UN Convention Relating to the Status of Refugees) and its 1967 Protocol relating to the Status of Refugees: of the examined countries, Samoa and Saint Lucia are not parties.



International customary law, which applies to all States, including those that have not ratified relevant treaties, lays down certain rights and prohibitions that apply to all persons, including migrants, such as the right to be free from torture and inhumane treatment and the prohibition of *refoulement*. Indeed, internally recognized human rights apply to all persons without discrimination, that is, without regard to their immigration status.

In addition to legally binding international human rights instruments, the **SDGs** recognize the vulnerability of migrants to exploitation and abuse, specifically through the targets related to countering trafficking in human beings: Target 5.2 (eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation), Target 16.2 (end abuse, exploitation, trafficking and all forms of violence against and torture of children), and Target 8.7 (take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour). At the same time, in the New York Declaration,³⁸⁹ States have committed themselves to developing non-binding guiding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations.

Migrants have the right to the same human rights protection as non-migrants. Yet, **violations of fundamental human rights** remain at the centre of the experiences of both victims of trafficking and smuggled migrants, occurring throughout the trafficking and smuggling processes – prior to, during and after these crimes have been committed – underscoring the critical nature of the need for assistance to both groups.

Many migrants face significant rights violations **in transit, at their destination, and during or following return**. Discrimination on diverse grounds, including gender, ethnicity and sexual orientation, can severely limit economic opportunities, exacerbating poverty and pushing individuals to migrate. With increasingly limited legal avenues, they often turn to irregular and unsafe migration routes and the help of smugglers, who deceive them about costs, risks, transportation methods, routes and conditions of travel. Although choosing to retain a smuggler for the purpose of illegal entry into a country, smuggled migrants remain vulnerable to numerous human rights violations, including trafficking in human beings.

389 The New York Declaration for Refugees and Migrants recognizes that UN Member States should, “with full respect for our obligations under international law, vigorously combat human trafficking and migrant smuggling with a view to their elimination.” United Nations General Assembly, New York Declaration for Refugee and Migrants, A/RES/71/1, New York, 2016.



Smugglers abandon migrants en route, even at sea; they are forced into unsafe vessels and abandoned at destinations to which they had no intention of going.³⁹⁰ Throughout the smuggling process, smugglers engage in extortion, kidnapping, rape, sexual assault, torture, indefinite extra-legal detention and inhumane conditions. They further sell migrants on the black market to work as slaves and forced labourers.

Some are murdered or perish in accidents and due to inhumane treatment and conditions.³⁹¹ Such dangers are evidenced by the 8,057 reported deaths in 2016 and the 6,142 for 2017.³⁹²

Once at their destination, migrants may continue to face violence, abuse, and other rights violations. Many – regular and irregular, international and internal – face language barriers, challenges to integration and xenophobia. They are often targeted by unscrupulous employers, landlords and service providers who take advantage of their limited knowledge of local conditions and reduced bargaining power. Irregular migrants are frequently unable or unwilling to access social services due to fear of detection, even if they are legally entitled to them, increasing their vulnerability to exploitation.

Prior to being trafficked, domestic violence and child abuse, including sexual abuse, constitute push factors, leading many women and children to leave the family home in search of job and other opportunities, rendering them vulnerable to traffickers. Early and forced marriage also render girls vulnerable to trafficking by family members, including a spouse or an in-law, and to other human rights deprivations, including access to education. At the same time, forced marriage is itself a form of trafficking in human beings. Ineffective social welfare and criminal justice interventions and the lack of rule of law result in the frequent failure to prevent and prosecute these crimes, preventing victims from escaping from the vulnerable situations that lend themselves to trafficking in human beings. Victims of trafficking also face violations of their right to physical integrity as they suffer physical and sexual assault, as well as rape. Violation of their right to freedom of movement also occurs when they are kidnapped and/or held in captivity, or their identity or travel documentation has been confiscated,

390 IOM, Global Compact Thematic Paper, *Protection of the human rights and fundamental freedoms of migrants and the specific needs of migrants in vulnerable situations (2017)*, p. 4. Available from www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-Thematic-Paper-Protection-of-Human-Rights-and-Vulnerable-Migrants.pdf

391 See, e.g., Amnesty International, *Refugees and migrants fleeing sexual violence, abuse and exploitation in Libya*, July 2016. Available from www.amnesty.org/en/latest/news/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya, last checked 7 February 2018; CNN, *People for Sale*, 14 November 2017. Available from www.edition.cnn.com/specials/africa/libya-slave-auctions, last checked 7 February 2018.

392 IOM, *Missing migrants*. Available from www.missingmigrants.iom.int/, last checked 4 December 2017.

impeding their escape. At the extreme, victims of trafficking face torture and inhuman treatment, are subjected to slavery, servitude and debt bondage, and death, in violation of the right to be free from torture, inhumane and degrading treatment, the prohibition on slavery and of the right to life.

The human rights of trafficking victims and smuggled migrants are also violated after their trafficking and smuggling experiences are over. As IOM has observed: “[d]espite the growing prevalence of migration as a global phenomenon, migration governance frameworks are not adapting quickly enough to address the emerging protection challenges.”³⁹³ The absence of adequate governance frameworks, resources and capacity across sectors results in multiple human rights violations of the very persons most in need of protection. For example, the systematic deportation of irregular migrants, without effective screening, results in the *refoulement* of asylum seekers, trafficking victims and smuggled migrants who are victims of other crimes, although they may face the threat of persecution, torture or ill-treatment in their country of origin. Victims of trafficking are also frequently prosecuted for crimes committed during the course of being trafficked, despite provisions in the Trafficking Protocol precluding such prosecution.

The scale of both crimes has resulted in States being unable to fulfill their due diligence obligations to combat migrant smuggling and trafficking in human beings while protecting the human rights of affected migrants. Bolstering the collective ability among States to effectively counter migrant smuggling and trafficking in human beings constitutes a central component of the forthcoming **Global Compact for Migration**.

393 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 3.



F. Prevention and awareness-raising

Preventing trafficking in human beings and migrant smuggling involves decreasing social and economic vulnerability, and providing for legal migration channels. As described in previous sections, a comprehensive legislative and policy framework that tackles risk factors across multiple sectors is critical. For example, the effective implementation of laws and policies to address gender-based violence, to reduce corruption and to facilitate civil registration, all go a long way toward reducing vulnerability.

The Migrant Smuggling and Trafficking Protocols both provide for State Parties to engage in prevention. Articles 15 of the Migrant Smuggling Protocol and 9(2) of the Trafficking Protocol foresee prevention through public awareness-raising and media campaigns. Both Protocols also foresee prevention efforts that address the root causes of both phenomena.

Article 9(4) of the Trafficking Protocol foresees addressing systemic issues, providing that:

States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

Article 15 of the Migrant Smuggling Protocol states:

Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.³⁹⁴

³⁹⁴ Article 7 of the Migrant Smuggling Protocol foresees cooperation among States Parties to prevent maritime migrant smuggling.



You... can help combating human trafficking in SVG. If you - or someone you know - have received a dubious job offer, an offer of paid studies or marriage proposal in SVG or abroad, consider the following advices:

- 1 VERIFY AND LOOK FOR MORE INFORMATION**
 Carefully verify the information. Look for more information about the company or person who made the offer. If it involves travelling abroad, know your right as a migrant in that country and necessary travel documents.
- The Anti-Trafficking in Persons Unit (ATIPU) can help you verifying information (see contact information below).
- 2 TRUST YOUR INTUITION**
 If it feels suspicious, reach out for support to the authorities or someone you trust.
- 3 DO NOT SIGN**
 Do not sign any document you do not understand; especially if it is in a foreign language.
- 4 NO MIDDLE-MEN**
 Do not use middle-men to arrange for permits, travel documents or any kind of other document.
- 5 TOO GOOD TO BE TRUE**
 When it sounds too good to be true; it probably is.
- 6 AVOID DEBTS**
 Traffickers sometimes use debt bondage to control you. Don't get fooled when they say you can pay later.
- 7 TRAVEL LEGALLY**
 Do not travel with false ID, passport visa or work permit. You will be in a vulnerable situation. Traffickers make use of this.
- 8 CODE WORD**
 Establish a code word with your family or person of trust to alert if any problem.
- 9 CONTACT INFORMATION**
 Always travel with the contact details to the SVG embassy or consulate, or other relevant authority.
- 10 CHILDREN**
 Remember that children can only travel with permission from parents or legal caretakers.

WANNA KNOW MORE? WANNA REPORT SOMETHING?

Contact the Anti-Trafficking in Persons Unit (ATIPU):
 Email: svgantitraffickingunit@gmail.com
 Telephone: 1-784-456 1750/ 457 1211
 Facebook page: [Anti-trafficking in persons unit, rsvgpf](#)

One of several infographics developed with the Action's TA support to raise awareness on THB in Saint Vincent and the Grenadines.



FI. Public awareness-raising

Sensitizing the public, high-risk communities and the media to the phenomena of migrant smuggling and trafficking in human beings constitutes a common component of prevention. Sensitization campaigns can also address underlying attitudes and social norms, such as gendered norms and child fostering, which serve to perpetuate the vulnerabilities and inequalities that lead to THB and SoM.

Sensitization campaigns can address **misperceptions among potential migrants** by providing accurate information with respect to opportunities in destination countries and the risks involved. Such campaigns “inform people through migrants speaking about their experiences directly.”³⁹⁵ However, there are no documented examples of directly impacting migration decisions through engagement on social media.³⁹⁶ Research in West and Central Africa has found that “migrants are defiant and determined in the face of dangerous journeys,” thus raising questions about the impact of anti-smuggling prevention measures focused on deterring migration.³⁹⁷ According to IOM: “Far too often public awareness campaigns are targeting potential victims, highlighting the risks of trafficking instead of promoting safe alternatives, either at home or through safe migration channels.”³⁹⁸ Indeed, the Senegal TA found that potential migrants were already fully aware of the risks of migration, and that money spent on campaigns targeting migrants about the dangers of migration would be a waste of resources. Rather, it found that the prevailing myth that migration is an essential element of the path to success was an overriding determinant, and that future communication strategies should focus on dispelling that myth rather than on elucidating the risk of trafficking.³⁹⁹ At the same time, the TA underscored the government’s role in perpetuating this myth, by granting privileges to the diaspora and amplifying their contributions while minimizing those of non-migrants.⁴⁰⁰

395 ACP-EU Dialogue, Seminar Report, p. 2.

396 See, European Commission, DG Migration & Home Affairs, *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries*.

397 IOM, *Migrant Smuggling Data and Research: A global review of the emerging evidence base*, p. 43.

398 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery* (2017), p. 4.

399 Senegal Mapping TA, TA/027/2016, pp. 13–14, 33 (suggesting a comparative quantitative study to demonstrate that non-migrants actually contribute more to the daily needs of their families than non-migrants).

400 Senegal Mapping TA, TA/027/2016, p. 33.

Increased awareness among professionals, State actors and the public is often a direct function of the existence of reliable **national data and information sharing**. Existing data on the specific characteristics of migrant smuggling and trafficking in human beings within a national context should form the basis of awareness-raising campaigns that reflect local reality. In turn, awareness-raising campaigns can increase identification, when the public and victims are informed about hotlines, where to report a suspected crime and where a victim can seek assistance.

Awareness-raising programs can target **geographically affected areas, and/or specific audiences**, such as women, children, parents and minority groups. Adapted to the target audience, campaigns can use traditional and social media, namely: TV, radio, websites and mobile apps, including: Whatsapp, Twitter, Facebook, YouTube and Instagram. Also theatre and puppet shows, road shows and exhibitions, seminars and lectures at universities, primary schools and churches, and music and short videos have all been used to sensitize diverse audiences about trafficking in human beings and migrant smuggling. **Community consultation** regarding both the content and means of dissemination has resulted in the most effective outreach campaigns. At the P2P Exchange, Senegal shared its best practice of developing prevention campaigns targeting specific communities, in consultation with and with the support of community leaders.

TA intervention in Saint Vincent and the Grenadines: development of awareness-raising materials

In Saint Vincent and the Grenadines, sensitization campaigns were revised in the framework of the TA request, in order to target specific audiences. First, an analysis of the information needs of the general public in Saint Vincent and the Grenadines was made, including receiving inputs from women and men from different age-groups: adults, adolescents and young adults. Age-sensitive awareness-raising material informing about measures to reduce the risk of becoming a THB victim and about THB indicators were then developed made available to Saint Vincent and the Grenadines citizens.

Source: Saint Vincent and the Grenadines TA, TA/033/2016.



Several of the researched ACP countries have undertaken sensitization and awareness activities. In Trinidad and Tobago, public-awareness activities focused on child trafficking, using not only TV and radio spots, but puppet shows, talks at primary schools and youth clubs, and by screening a locally-produced film on trafficking.⁴⁰¹ In Senegal, CSOs have led diverse awareness-raising campaigns on child labour, targeting employers and the general public, including through the arts.⁴⁰² Furthermore, stakeholders in Senegal are also considering integrating migration issues into national curricula.⁴⁰³ Swaziland does “commendable” work on awareness-raising on THB. However, limited awareness-raising activities have been held on SoM, resulting in confusion over the difference between THB and SoM.⁴⁰⁴

In Samoa and Solomon Islands, awareness of THB and SoM remains low among frontline officials, and in Samoa there is reportedly no awareness about these phenomena among the general public.⁴⁰⁵

Operating in isolation, national prevention campaigns are not effective. Consequently, campaign initiatives should be monitored and evaluated for results as a pre-requisite for improving communication strategies.⁴⁰⁶ Collaboration with **civil society** can also be beneficial. While awareness-raising campaigns are set forth in the operational plan of Guinea’s national anti-trafficking committee, they are primarily carried out by development partners and civil society organizations.⁴⁰⁷ While NSAs may be the best placed to carry out effective awareness-raising at the community level, their efforts should not, however, release governments of their obligations, including the provision of financial support. The **media** often requires training to publishing information regarding THB and SoM, particularly because publishing information could lead to the identification of victims. In Saint Lucia, the media’s harassment of trafficking victims revealed the need for sensitization among media agencies, especially related to victims’ rights, including the right to privacy.⁴⁰⁸

In order to reach the desired public with the appropriate message, continuous **engagement with communities**, local government actors and grassroots community-based organizations is essential to effectively communicate the risks of trafficking

401 ACP-EU Dialogue, Seminar Report, p. 7.
 402 Senegal Domestic Servitude BA, TA/042/2016, pp. 10, 11, 13.
 403 Senegal Mapping TA, TA/027/2016, p. 14.
 404 Swaziland BA, TA/047/2016, p. 22.
 405 Samoa BA, TA/048/2016, p. 5; Solomon Islands TA, TA/022/2015, p. 8.
 406 ACP-EU Dialogue, Seminar Report, pp. 14–15.
 407 Guinea BA, TA/036/2016, p. 16 (noting that the US Department of State 2016 TiP Report highlighted Guinea’s failure to provide sensitization to peacekeepers and diplomats).
 408 Saint Lucia BA, TA/040/2016, p. 10.

and smuggling.⁴⁰⁹ **Traditional community leaders, such as village chiefs**, also require awareness-raising on THB and SoM in several ACP States, including Vanuatu and Senegal.⁴¹⁰ Yet, little attention has been paid to date on the potential role of religious and customary chiefs in combating trafficking in human beings and migrant smuggling, especially in light of their direct contact with migrants, their respected roles in communities and the fact that they are often called to give blessings to departing migrants. In addition to being a source of information to increase understanding of the diverse dimensions of the phenomenon, these community leaders could be mobilized for sensitization campaigns.⁴¹¹ Religious congregations were identified in several BAs as important sources for awareness-raising.⁴¹² The importance of religion, extended family and village life was identified as providing a strong moral bulwark against trafficking in human beings and a foundation for improving awareness.⁴¹³ While no national-level awareness-raising campaign has taken place in Haiti due to the lack of available funds, most groups work on small-scale awareness-raising in local communities, which may be more effective than national campaigns given the specificity of the target audience. There is also a need to target families who may unwittingly be accomplices in child trafficking, as already mentioned this occurs in few countries such as in Haiti and Solomon Islands.⁴¹⁴

Given the important role of social networks in migrant smuggling, working “more closely with **diaspora** to co-design information campaigns to raise awareness on legal routes and the risks of using smugglers,” and “using diaspora as the vehicle through which these messages are developed and delivered could positively impact on their effectiveness.”⁴¹⁵

Although ethno-linguistic or nationality ties are frequently embedded within the trafficking scheme, **linguistic diversity** can pose challenges to effective sensitization

409 ACP-EU Dialogue, Seminar Report, p. 14.
 410 Vanuatu BA, TA/018/2015, p. 14 (noting the important role played by Chiefs in local communities in Vanuatu).
 411 Senegal Mapping BA, TA/027/2016, p. 24; Samoa BA, TA/048/2016, p. 14 (noting the possibilities of working with village leadership on community-based awareness-raising, and victim identification and protection).
 412 Vanuatu BA, TA/018/2015, p. 14.
 413 Samoa BA, TA/048/2016, pp. 7, 8, 11.
 414 Haiti BA, TA/049/2016, pp. 5, 11; Solomon Islands TA, TA/022/2015, pp. 15, 16.
 415 European Commission, DG Migration & Home Affairs, *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries*, 2015, p. 115 (noting that “irregular migrants listen to each other and to their families and rely heavily on these relationships to establish the trust required to engage with smugglers to facilitate their journey”).



efforts among stakeholders in several ACP States.⁴¹⁶ Awareness-raising campaigns must hence be produced in the languages used by the migrant communities.

Recommendations

Public awareness and sensitization

- Sensitization and awareness-raising should be conducted with the full range of stakeholders, including the staff of key institutions, NSAs and the media;
- Design awareness-raising campaigns to prevent trafficking in human beings that address underlying attitudes and social norms that perpetuate vulnerabilities;
- Engage in community consultations, and diaspora communities, in designing awareness-raising campaigns to ensure appropriate messaging; produce materials in the language of the targeted audience;
- Apply monitoring, follow-up and evaluations to campaigns;
- Prevention programmes should not be limited to awareness-raising campaigns focused on the dangers of unsafe migration;
- Consult with local, community, religious and customary leaders as potential key actors in prevention;
- Provide training to stakeholders, including subnational actors, on the relationship between social norms and vulnerabilities to exploitation.



F2. Realistic alternatives to migration

Irregular migration increases risks for migrants, including the risk of being subject to trafficking and other exploitative practices. Any meaningful prevention effort must be associated with realistic alternative options to unsafe migration, such as development and work opportunities that benefit migrants and their societies in the countries of origin and destination.⁴¹⁷ In its Thematic Paper on trafficking in human beings for the Global Compact, IOM has suggested that: “Origin, transit, and destination countries should address this issue collaboratively by increasing opportunities for regular migration, including for employment, education, family reunification, and humanitarian admissions.”⁴¹⁸

TA intervention in Senegal: a developmental approach to migration

One of the central recommendations of the Senegal TA calls for a prevention strategy that focuses on the development of profitable economic activities. Specifically, it recommends support on production and commercialization techniques to ensure that products reach national and regional markets. It also recommends that migration issues be integrated into development and poverty reduction strategies at the departmental and commune (local) levels. Senegal takes a decidedly developmental approach to the issue of migration, capitalizing on the benefits of remittances for development. Yet, the social and economic support for the diaspora structurally incentivizes migration, rather than ensuring sustainable economic opportunities and investment returns for non-migrants.

Source: Senegal Mapping TA, TA/027/2016.

416 See, Europol, *Migrant Smuggling in the EU*, p. 10 (noting in the EU context that “[m]igrant smuggling networks in source or transit countries exploit ethnic and national ties to diaspora communities across the EU”); Solomon Islands BA, TA/022/2015, p. 11; Swaziland BA, TA/047/2016, p. 22.

417 ACP-EU Dialogue, Seminar Report, p. 14 (noting that “[d]espite the odds against them, people will still migrate, as the drive to improve their circumstances is greater than the fear of abuse and exploitation along the route”).

418 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 6.



Accessible legal migration channels can be created through: the establishment of well-administered visa and entry schemes with limited waiting times, reasonable fees and effective identity management practices. Regular channels should also include:

- Opportunities for family reunification;
- Openings for labour migration;
- Access to asylum or durable international protection through resettlement schemes;
- Humanitarian admission schemes for refugees and migrants in need;
- Community based sponsorship programmes; and,
- Academic scholarships.⁴¹⁹

In Senegal, the large majority of irregular migrants are boys and men between the ages of 15–44 with little or no education, all of whom have engaged in economic activity in order to amass the funds necessary to make the journey.⁴²⁰

Largely from rural areas with the rates of poverty ranging from 62–77 per cent, their decision to migrate is based on their need to increase their income and the belief that migration is more profitable than local investment.⁴²¹

The provision of **direct assistance to migrants** in situations of vulnerability can also serve to prevent them being trafficked. In this regard, timely identification of migrants in vulnerable situations is essential, especially in the context of large migration movements, where migrants often have very limited access to services. With an increased understanding of what makes individual migrants vulnerable to trafficking, States and service providers should work to address those vulnerabilities before they are exploited.⁴²²

Providing **safe return and adequate reintegration** for smuggled migrants and victims of trafficking in human beings can prevent the need for future unsafe migration. As identified during the TA, most migrants who return to Senegal after failing to reach their destination try at least two or three more times.⁴²³ In the case of VOTs, reducing vulnerability can prevent also re-trafficking.⁴²⁴ As underscored at the P2P Exchange in Guyana, IOM's Assisted Voluntary Return and Reintegration (AVRR) programme, which is funded by the EUTF, Germany and Italy, constitutes an important tool to this end.

419 See, IOM, Global Compact Thematic Paper, *Countering migrant smuggling* (2017), p. 5.

420 Senegal Mapping TA, TA/027/2016, pp. 9, 28, 29 (noting that only 17% of irregular migrants are female).

421 Senegal Mapping TA, TA/027/2016, p. 31.

422 See, IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 7.

423 Senegal TA, TA/027/2016, pp. 10, 33.

424 ACP-EU Dialogue, Seminar Report, p. 14.

Recommendations

Realistic alternatives to migration

- Bilateral and multilateral cooperation agreements on stemming migration should provide financing to support sustainable alternatives;
- Develop programmes that offer livelihood options, including basic education, skills training and literacy, especially for women and other traditionally disadvantaged groups;
- Improve children's access to educational opportunities and increase the level of school attendance, in particular by girl children;
- Countries of origin should review and reform policies that structurally incentivize migration in lieu of robust national development schemes;
- Support the sustainable return and reintegration of smuggled migrants and victims of trafficking in human beings following good practices such as the IOM's AVRR programme.



F3. Addressing demand

While prevention efforts have traditionally targeted the supply of persons vulnerable to exploitation in their countries of origin, attempts have increasingly been made **to address demand** as a means of diminishing migrant smuggling and trafficking in human beings.⁴²⁵ Demand for SoM can be addressed either by increasing the number of paths for legal migration or reducing the demand for migration. Yet, over the last few decades, demand for **migrant labour** has risen with the flow of goods, capital and information as a function of increased globalization. Labour markets have internationalized, and new opportunities have opened up in destination countries for a growing supply of both skilled and unskilled migrants from less developed source countries. The demand for large profits leading to exploitation occurs within this context, and can be identified at various points along the trafficking in human beings and migrant smuggling chain: unscrupulous employers, brokers or agents, such as recruitment agencies who trap workers through the imposition of large and illegal debts. Consumers may not knowingly be complicit in supporting labour exploitation, but their preference for low cost products constitutes a driver. The situation is different for consumers of services, who likely have knowledge of, and are complicit in, cases of sexual exploitation or domestic servitude. Yet, “the responsibility of the industries and consumers demanding sexual services, cheap labour and cheap goods usually goes unrecognized.”⁴²⁶ Serious political will is required to address demand as doing so upends the status quo. Increased efforts are thus needed:

to address the reality that some goods are sold as cheaply as they are because of the poor and irregular payment of migrant workers in global supply chains. . . . Addressing the demand side of trafficking and exploitation requires the engagement of those creating the demand, including consumers themselves and the private sector.⁴²⁷

425 In line with Article 9(5) of the Trafficking Protocol, which reads: “States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

426 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 4.

427 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 4.



For example, as IOM has noted:

the private sector, which is heavily involved in migration as employers and purchasers of good and services, should leverage its significant influence to ensure ethical recruitment and decent work conditions for migrant workers, and to strengthen due diligence and remediation in line with ILO labour standards and the UN Guiding Principles for Human Rights and Business. Recruitment agencies should adhere to standards of conduct regarding ethical recruitment of migrant workers.⁴²⁸

In the Solomon Islands, the exploitation of “house girls” for sexual and domestic labour is a common practice in logging camps, such that every study on THB in the country “has concluded that commercial sexual exploitation of children is a serious and substantial problem,” one that requires “urgent action”.⁴²⁹ The demand for, and perpetration of, these crimes comes from the employees of international logging and fishing companies. However, labour inspections address only issues related to the companies’ logging permits, and there have been no investigations, “zero deterrent measures and zero punishment” by the State.

Corporate responsibility, as a matter of law and ethical practice, is an important potential tool to combat these practices. The TA in Solomon Islands provided with a scoping study on this phenomenon, as well as some recommendations to start addressing these issues. For example, the companies should be held legally accountable for the criminal offences committed by their employees. The Government could work with the private sector companies to develop internal policies and codes of conduct for workers. Licenses should be revoked for companies who permit their employees to engage in THB and child sexual exploitation. Notably, the expansion of the scope of the labour inspectorate and the introduction of legislation ensuring corporate responsibility require action by the State, and corruption has been identified as a significant issue in the fishing and logging sectors.⁴³⁰

Hence, measures aimed at addressing demand include: ensuring corporate responsibility, **regulating private recruitment agencies**, private sector initiatives to ensure supply chains are free of exploitation, enforcing labour standards through inspections, increasing the rights of migrant workers, addressing the root causes and contributing factors, such as social norms that enable exploitative practices to

428 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 6.

429 Solomon Islands TA. TA/022/2015, p. 13.

430 Solomon Islands TA. TA/022/2015, pp. 17, 18.



flourish, and consumer-based actions. Further efforts to provide safe, regular options for both work and migration, media campaigns and criminalizing the use of services could also help address demand.

Finally, “[c]ampaigns to shift individual citizens’ behaviour in their role both as consumers and as conscientious members of society should be expanded, and efforts to sensitize, encourage, assist, or obligate companies to clean up their supply chains should be enhanced.”⁴³¹

Recommendations

Addressing demand

- Countries of origin and transit should establish regulations for travel and recruitment agencies, and monitor compliance;
- Adopt labour migration agreements, including provision for minimum work standards, model contracts, modes of repatriation, etc., in accordance with existing international standards;⁴³²
Strengthen labour inspections, labour rights protections and expand the scope of competence of labour inspectorates;
- Introduce codes of ethics for companies linked to THB or labour abuses;
- Enact legislation requiring corporate responsibility;
- Criminalize the use of the services of a trafficked person;
- Foster private sector initiatives to ensure supply chains free of exploitation;
- Campaigns targeting consumers and private sector industries should be employed to reduce the demand for cheap labour and goods.



G. Data collection, management and sharing

Data collection and information sharing on combating trafficking in human beings and migrant smuggling is essential for the development of evidence-based policies. When the scale and the nature of the crimes remain unknown, it becomes difficult to generate the political will necessary to prioritize efforts to combat trafficking in human beings and migrant smuggling, including sufficient allocation of the national budget to counter-THB and counter-SoM efforts.

In the fight against trafficking in human beings, it is essential to obtain data on:

- Victims;
- Traffickers;
- Trafficking process;
- Criminal justice response.

Source: European Commission, *Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators* (2009).

The **scarcity of data** on both phenomena globally remains a significant obstacle. Much of the available data on migrant smuggling, for example, is gathered in destination countries and is based on apprehension. Data from the Caribbean and the Pacific, regions with low capacity for data collection, is often mixed with the data from the wider regions, Central America and East Asia, respectively, obscuring the particularities of the data that might assist in developing tailored response.

This was identified at the P2P Exchange as a barrier to effective evidence-based policymaking. This problem was also noted several of the researched in several ACP States.⁴³³

431 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 4.

432 See, OHCHR, *Recommended Principles and Guidelines*, Guideline 11.4.

433 Angola BA, TA/041/2016, p. 6 (noting the lack of data on the incidence of trafficking in human beings, prosecution and victim support); Vanuatu BA, TA/018/2015, pp. 7, 12 (noting the absence of any previous research or systematically collected data on SoM and THB, but noting the creation of a locally designed database on financial intelligence); Saint Vincent and the Grenadines BA, TA/033/2016, pp. 5, 7.



TA intervention in the Solomon Islands: systemic data collection on THB

In Solomon Islands, THB data collection is not maintained and remains at the level of anecdote. With TA support from the Action, a template was developed for first responders, fostering the systemic collection of data. The initial collection of data will enable a mapping of the crimes, after which the template could be tailored. The systemic collection of data in the Solomon Islands will increase the future potential for intelligence-led investigations. In the short term, in order to ensure the collection of valid data, first responders must be trained on recognizing THB, an aide memoire could be developed to assist front-line actors until THB identification becomes routine, and capacity must be built on data analysis.

Source: Solomon Islands TA, TA/022/2015.

In the Pacific region, data tends to be extremely limited, if not non-existent. Due to an absence of data, “the actual nature and extent of human trafficking in the Solomon Islands” and in Vanuatu remain unknown. In the case of Vanuatu, its absence from the US State Department’s annual Trafficking in Persons Report and UNODC’s Global Report means that “there is no systematic or verified information available on the trafficking or smuggling process, nor on the profile of the victims or traffickers and smugglers.”⁴³⁴

Data in Saint Lucia is limited to anecdotal information “that could be classified as probable cases of human trafficking.”⁴³⁵ The anecdotes on potential cases of THB in Saint Lucia involve two cases, among others: one involved the sexual exploitation of four young women from Russia and Ukraine (who refused to cooperate with authorities); another involved the labour exploitation of 70 young men from Nepal, 9 of whom were confirmed as trafficking victims with IOM’s assistance.⁴³⁶ With respect to the latter incident, participants at the P2P Exchange underscored the confusion generated when incidents involving large numbers of victims were referred to as one single case of trafficking, skewing data.

434 Vanuatu BA, TA/018/2015, pp. 7, 8 (noting “no previous formal and objective written sources on these particular subjects”).

435 Saint Lucia BA, TA/040/2016, p. 8.

436 Saint Lucia BA, TA/040/2016, p. 8. No database on trafficking in human beings exists in Saint Lucia.



The absence of any legislation on SoM in Trinidad and Tobago serves as a barrier to data collection, as no agency is charged with doing so. The only data gathered to date is based on that provided by intercepted migrants, and thus there is negligible information available on migrant smugglers.⁴³⁷ Similarly, in Swaziland, data is only collected on SoM from intercepted cases, and the extent of migrant smuggling remains unknown, hindering the development of evidence-based policies and effective response.⁴³⁸

In order to build data collection capacity in Saint Vincent and the Grenadines, the Action supported the development of guidelines for data collection on THB for the three key national THB institutional stakeholders.⁴³⁹

In numerous ACP States, such as the Dominican Republic, Senegal and Guinea, various agencies collect data on THB and SoM, resulting a lack of coherence in the data and rendering it unreliable.⁴⁴⁰ To ensure reliable data, it should be collected in a harmonized manner, developed through inter-agency protocols. Given the cross-border elements of both crimes, data collection practices should be harmonized across States. Effective **inter-agency information sharing** should be mutually beneficial for each institution involved, and entail two-way flows of information, rather than an extractive approach. In this regard, information sharing should involve civil society groups working with trafficking victims and smuggled migrants. As participants in the ACP-EU Dialogue Seminar underscored, developing standardized database interfaces across agencies constitutes a significant challenge.⁴⁴¹

IOM recommends that governmental and non-governmental partners work together to ensure common understanding and knowledge of standards and definitions for human trafficking case data.⁴⁴²

437 Trinidad and Tobago BA, TA/046/2016, pp. 9, 13, 15 (noting that the “stakeholders were more aware of the nationalities of smuggled migrants”).

438 Swaziland BA, TA/047/2016, pp. 5, 28.

439 Saint Vincent and the Grenadines TA, TA/033/2016, p. 8.

440 Dominican Republic BA, TA/029/2016, p. 8; Guinea BA, TA/036/2016, p. 20; Sudan also lacks consistency in data gathering, rendering the information unreliable; Senegal Mapping BA, TA/027/2016, p. 12 (recommending to improve the availability and reliability of data on migration, which is sporadic and does not cover all of the issues); Senegal Domestic Servitude BA, TA/042/2016, p. 6 (noting an absence of data on trafficking for the purpose of labour exploitation of domestic workers); Saint Lucia BA, TA/040/2016, p. 8; ACP-EU Dialogue, Seminar Report, p. 9.

441 ACP-EU Dialogue, Seminar Report, p. 9.

442 IOM, Global Compact Thematic Paper, *Combating trafficking in persons and contemporary forms of slavery*, p. 7.



TA intervention in the Dominican Republic: a unified information management system

The Action has supported the creation of a unified information management system on cases of human trafficking in the Dominican Republic. It includes software development to systematize and share information.

A basic system was put in place, and was designed to be able to grow over time: it is possible to add information fields and functions at a later stage, according to the needs that arise. In the same way, the system was designed to be fed and used initially and exclusively by PETT (the requesting entity), but with sufficient flexibility to add users from other relevant institutions over time. In other words, the possibility to expand into a more complex system was a critical part of its conceptualization in order to increase its long-term usefulness.

Source: Dominican Republic TA, TA/029/2016.

Other States **lack data collection and management systems**.⁴⁴³ Samoa has not yet developed a system for THB quantitative reporting.⁴⁴⁴ Also Papua New Guinea lacks any formal data collection system on THB, and on GBV, although the country has the “highest rates [of GBV] in the world”. There are thus no national statistics on either THB or GBV.⁴⁴⁵ In these countries, the BA itself constituted an important contribution to information on these issues, and has been subsequently used by stakeholders.

Building and maintaining proper case management systems requires a significant resource investment, but they are essential for tracking and monitoring interventions. Accurate data is needed on the forms, modalities and geographical locations of the crimes, on prosecutions, convictions and sentencing, as well as anonymized data on victims and the types of assistance provided.

Data management systems are essential in securing, harmonizing and storing sensitive information, including related to **victims**. As noted in Senegal, data collection on irregular migration is challenging due to the sensitivity of the issue.⁴⁴⁶ Data must furthermore be gathered in a sensitive and appropriate manner, disaggregated by age,

443 Angola BA, TA/041/2016; Haiti BA, TA/049/2016, p. 15; Vanuatu TA, TA/018/2015, p. 6.

444 Samoa BA, TA/048/2016, p. 12.

445 Papua New Guinea BA, TA/030/2016, p. 12.

446 Senegal Mapping TA, TA/027/2016, p. 16.



gender, nationality and other characteristics, and its confidentiality must be protected. Training must further be provided on data collection, analysis and management. One of the central recommendations of the TA for Senegal was the need for technical infrastructure support and staff training to improve the collection and management of data. The TA further recommended integrating and mainstreaming migration issues into surveys and ongoing data collection.⁴⁴⁷

The **ability to analyse collected data** is also essential and needed in ACP States. Standard operating procedures could be developed on what information to collect and how. In this regard, the Vanuatu TA noted that if a data collection system existed, “the intelligence cycle would end there,” given that the infrastructure “does not support intelligence gathering or an intelligence-led policing culture.”⁴⁴⁸ Low levels of understanding about the crimes will have an impact on stakeholders’ ability to record accurate data, rendering training on data collection and identification critical, especially among frontline responders.⁴⁴⁹ In many ACP countries, the data is not yet digitalized, impeding data sharing and analysis.

Limited infrastructure outside of urban centres can have important implications for reliable data collection. The Solomon Islands provides a striking example of the challenges faced in data collection, as it encompasses 900 islands, with a highly decentralized population. Remote areas lack the presence of any government official or NSA, transport remains unreliable, government offices lack computers and many locations have no constant electricity supply or ICT connection.⁴⁵⁰ Unreliable Internet connection can also hinder data collection efforts as the example of Swaziland demonstrates.⁴⁵¹ Likewise, the data collection system developed for Samoa “should be simplified to have regard to local circumstances.”⁴⁵² As a general matter, internationally developed methodologies should be adapted to the local context. For example, datasets might foresee a smaller number of parameters and require manual collection techniques.

447 Senegal Mapping BA, TA/027/2016, pp. 12–13.

448 Vanuatu TA, TA/018/2015, p. 14 (noting no analysts in the relevant intelligence unit).

449 Vanuatu TA, TA/018/2015, p. 7.

450 See, Solomon Islands BA, TA/022/2015, pp. 14, 16.

451 Swaziland BA, TA/047/2016, p. 23.

452 Samoa BA, TA/048/2016, p. 13.



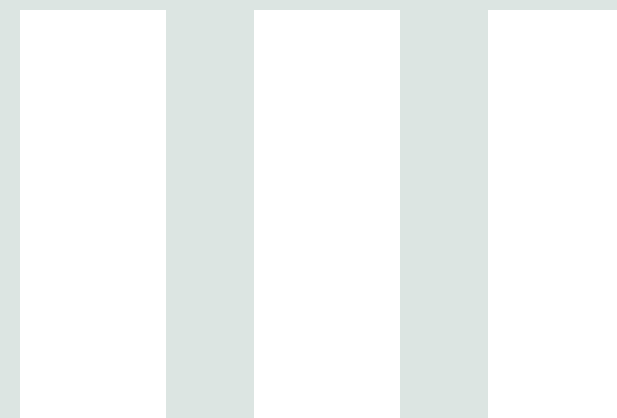
Recommendations

Data collection, management and sharing

- Harmonize data collection on SoM and THB across government institutions through inter-agency protocols;
- Develop standard operating procedures to guide data collection;
- Protect the confidentiality of data, and collect data in a sensitive and appropriate manner;
- Disaggregate data by age, gender, nationality and other characteristics;
- Ensure capacity-building to enable analysis of information and intelligence gathering;
- Data collection and management methodologies must be adapted to the local context;
- Provide training to key stakeholders on data collection, analysis and management;
- Integrate and mainstream SoM and THB issues into surveys and ongoing data collection efforts;
- Information sharing and collection should involve civil society groups working with trafficking victims and smuggled migrants.



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Recommendations

A. Legal and policy framework

A1 International standards for anti-trafficking and anti-smuggling legislation

- Ratify Migrant Smuggling and Trafficking Protocols and the UNTOC
- THB and SoM legislation must be integrated into national legal frameworks
- Criminalize THB and SoM in line with Protocol definitions and enact comprehensive legislation to ensure the full scope of protection and assistance to victims
- Criminalize THB and SoM in separate pieces of legislation
- Decriminalize the resort to smugglers by migrants in line with Article 5 of the Protocol
- Focus prosecutions on migrant smugglers and not smuggled migrants

A2 National strategies and action plans

- National strategies and action plans should clearly delegate responsibilities and tasks, with established time frames and indicators for monitoring and evaluation purposes
- MoUs should be employed to support ongoing inter-agency cooperation
- Apply monitoring, follow up and evaluations to track policy implementation and effectiveness
- Ensure adequate budgeting allocations for the implementation of national strategies and action plans
- The creation of protocols and standard operating procedures are necessary to ensure that referrals, assistance and protection are provided to victims of trafficking and smuggled migrants consistent with their rights under the Protocols

A3 Comprehensive legislative and policy framework

- THB- and SoM-related issues should be mainstreamed across the law and policy of a wide range of sectors
- Relevant international human rights conventions should be signed and ratified, such as: the CRC Optional Protocols, ILO Conventions and the Convention on the Rights of All Migrant Workers and Members of their Families (see also Cross-cutting Issue 4)
- The effective implementation of law and policy on GBV is necessary for tackling trafficking in human beings as a continuum of such violence
- Child protection should be the central focus of efforts to combat child trafficking

B. Implementation of law and policy

B1 Legal awareness among stakeholders

- Provide tailored, sector-specific trainings on national law and policy for key stakeholders that foster staff ability to integrate learning into their daily work
- Create guidelines or *aide memoires* for use by frontline law enforcement actors
- Integrate SoM and THB into standardized trainings for all key agencies, especially law enforcement and border management
- Ensure wide geographic coverage for trainings and awareness-raising, including the involvement of subnational actors

B2 Investigations, prosecutions and convictions

- Create a specialized criminal investigation unit, or designate a THB and SoM contact point within national law enforcement structure
- Build appropriate and compatible case management systems
- Provide specialized trainings for judges, prosecutors and investigators, with specific attention to building a case
- Increase efforts to track illicit financial flows
- Utilize different investigative methods as to reflect the different levels of complexity of criminal organizations involved in trafficking and smuggling
- Increase utilization of linguistic programmes designed to communicate with victims of trafficking in human beings and smuggled migrants, or increase resources dedicated to linguistic training to overcome language barriers

B3 Primary Governance Concerns

- TA projects should be designed to contribute to strengthening underlying governance systems while at the same time building specialized capacities.
- Bolster civil registration processes and the issuance of identity documents
- National-level coordination structures should incorporate subnational actors into policymaking and referral initiatives, as well as build the capacity of local actors to foster the decentralization of anti-THB and anti-SoM initiatives and effective protection and assistance to vulnerable populations outside of urban centres
- THB and SoM programmes and policies should capitalize on existing active decentralized systems, such as in the field of child protection, to incorporate anti-THB and anti-SoM initiatives
- Anti-trafficking and anti-smuggling programme implementation should not be designated to underfunded institutions with weak political leverage
- Sensitize actors within informal or customary justice mechanisms along with their counterparts in the formal justice sector, with regards to THB and SoM, including underlying discrimination mechanisms

C. Effective border management and tracking illicit financial flows

C1 Border management

- Border officials should have sufficient training and tools to effectively tackle transnational crime and support the identification of possible victims of trafficking and smuggled migrants in need of assistance
- The capacity of border officials to identify victims of trafficking and smuggled migrants should be strengthened, and to ensure their referral to needed assistance and protection
- Develop standard operating procedures (SOPs) or protocols on the identification of migrants who may need assistance or further screening, including possible victims of trafficking and smuggled migrants in need of assistance
- Develop/strengthen border information management systems to process and collect data on migrant and refugee arrivals and departure, that facilitate intelligence gathering and the formulation of risk profiles
- Strengthen international cooperation with other countries, and foster opportunities for cross-border collaboration on investigations
- Anti-corruption efforts should focus on border, customs and immigration officials
- Participate in regional border management efforts supported by international organizations
- Data collection and information sharing by border officials should form an essential part of cross-border investigations and other evidence-based enforcement initiatives

C2 Tracking illicit financial flows

- Tracking illicit financial flows is a strategy that should be increasingly deployed to deter both crimes
- Establish legislation for the confiscation of the instruments and proceeds of trafficking in human beings, migrant smuggling and related offences, specifying that the confiscated proceeds will be used for the benefit of victims
- Confiscated funds should be used to create a trust fund to support reintegration and remedies for victims of trafficking in human beings and smuggled migrants

D. National and cross-border cooperation and coordination

D1 National cooperation

- Create an inter-agency task force or cooperative mechanism to develop and implement law and policy on trafficking in human beings and migrant smuggling, where not already in existence, including the participation of CSOs
- Establish as needed cooperation agreements and MoUs between diverse institutions to foster effective inter-agency collaboration on the development of THB and SoM policies and their implementation

D2 Cooperation between national-level and local actors

- Include subnational actors in national strategy and policy documents on THB and SoM to foster decentralization
- National institutions should strengthen effective decentralized communication and coordination, and allocate sufficient resources to subnational actors from within institutional budgets
- Capitalize on the existence of active decentralized bodies to mainstream issues pertaining to THB and SoM into the scope of work, including counter-trafficking committees at the provincial or municipal level

D3 Cooperation between governments and CSOs

- CSOs and other NSAs should be actively involved in the development of law and policy and its implementation, and should be active official members of inter-agency coordination mechanisms at the national level
- Establish National Referral Mechanisms for victims of trafficking in countries where none exists, building on existing models for victims of domestic violence or child protection and including the participation of CSOs
- Provide financial support to CSOs to foster the development and implementation of human rights-based anti-THB and anti-SoM strategies, and to support their work in providing assistance and protection to victims of trafficking and smuggled migrants
- CSOs should be included, where relevant, in case management efforts, including as part of subcommittees on issues on which they have expertise

D4 Cross-border cooperation

- Adopt bilateral agreements to prevent and respond to trafficking in human beings and migrant smuggling, and to ensure the rights and protection of trafficked persons and smuggled migrants
- Develop cooperation arrangements to facilitate the rapid identification of trafficked persons and smuggled migrants, including the sharing and exchange of information in relation to their nationality and right of residence
- Develop cooperation agreements to strengthen cross-border investigations into the crimes of migrant smuggling and trafficking in human beings
- Engage in joint investigations grounded in mutual legal assistance frameworks
- Support cooperation between non-governmental organizations and other civil society organizations in countries of origin, transit and destination
- Where NRMs exist, they should engage with TRMs or directly with other NRMs to provide comprehensive assistance and the return and rehabilitation of trafficking victims
- Promote closer technical and economic South-South cooperation, in addition to North-South cooperation, by for instance, employing experts from the South, sharing best practices from the South, and building a sense of ownership of the development process
- International cooperation agreements should extend beyond law enforcement to encompass sustainable alternatives to migration and social support systems

D5 International and regional cooperation

- Elaborate regional and subregional treaties on THB and SoM, in line with the Trafficking and Migrant Smuggling Protocols and relevant international human rights standards
- Engage regional organizations/platforms for cooperation to strengthen national stakeholder capacity
- Utilize existing regional mechanisms to establish inter-agency information hubs or single points of contact on SoM and THB
- Establish a cooperative mechanism for the confiscation of the proceeds of THB and SoM. This cooperation should include the provision of assistance in identifying, tracing, freezing and confiscating assets connected to THB and SoM
- Establish regional mechanisms for judicial cooperation on investigations and judicial processes, through common prosecution methodologies and joint investigations
- International cooperation agreements should extend beyond law enforcement to encompass sustainable alternatives to migration and social support systems

E. Victim protection and assistance

E I Victims' rights to assistance and protection

- Establish NRMs and TRMs as discussed in previous sections
- Ensure that trafficked persons and smuggled migrants are effectively protected from harm, threats or intimidation by traffickers and associated persons, including through non-disclosure of identity
- Protect, as appropriate, the privacy and identity of victims of trafficking, including child victims, and ensure that measures are taken by all relevant actors to avoid the dissemination of information that could lead to their identification
- Victims of trafficking should be provided with appropriate accommodation, protection and psycho-social and medical assistance, in addition to other services; smuggled migrants who are victims of crimes should be provided with appropriate assistance based on their needs
- Ensure adequate and appropriate training, in particular legal and psychological training, for persons working with victims of trafficking; specialized training should be provided for those working with child victims
- Ensure that victims of trafficking, and smuggled migrants who were victims of other crimes, have an enforceable right to fair and adequate remedies, including the means for rehabilitation. These remedies may be criminal, civil or administrative in nature. Ensure that legislation enables victims to seek remedies and receive payments of such from outside of the country
- Provide information and legal assistance to enable trafficked persons to access remedies. The procedures for obtaining remedies should be clearly explained in a language that the trafficked person can understand
- Establish a compensation fund for victims of trafficking and the use of confiscated assets to finance such a fund
- Amend THB and immigration legislation to provide temporary, renewable stays for identified victims of trafficking, and ensure that arrangements are made to enable trafficked persons to remain safely in the country in which the remedy is being sought for the duration of any criminal, civil or administrative proceedings
- Ensure that the protection of trafficked persons is built into anti-THB and anti-SoM legislation, including protection from summary deportation or return
- Ensure that victims of trafficking and smuggled migrants victims of crimes, including children, are not subjected to criminal procedures or sanctions for related offences
- Ensure the fulfillment of fair trial rights to victims of trafficking in human beings, as set forth in the Trafficking Protocol and the ICCPR

- Ensure that criminal codes and legislation allow for improved investigation techniques that are not dependent upon victim testimony, including those which include digital evidence, undercover work and joint actions with other countries.
- Amend criminal procedural codes that do not provide protection for witnesses and victims
- Ensure that legislation allows for various types of testimony that protect the identity of victims, such as via video conferencing

E2 Gender, age and other characteristics of vulnerability

- Adopt a victim-centred approach in addressing the needs of trafficking victims and smuggled migrants who are victims of crimes
- Ensure the non-discriminatory provision of services, to nationals and non-nationals, adults and children, women and men
- Ensure that all agencies apply the best interest of the child standard when working with child victims
- Harmonize legislation to define children pursuant to international standards and prohibit child and early marriage

E3 Cultural and social norms

- Employ cultural mediators as part of NRMs or within law enforcement agencies to build trust with trafficking victims and smuggled migrants to ensure the effectiveness of protection and assistance, and to foster information sharing with investigation and prosecution authorities
- Involve leaders from diverse communities, including marginalized groups, including ethnic minorities, to participate in prevention and response strategies, in their design and implementation
- Work with village-level and customary leaders as an untapped source of information on trafficking- and smuggling-related phenomena, and as targets for awareness-raising on the links between traditional practices and trafficking in human beings, exploitation and gender discrimination

F. Prevention and awareness-raising campaigns

F1 Public awareness and sensitization

- Sensitization and awareness-raising should be conducted with the full range of stakeholders, including the staff of key institutions, NSAs and the media
- Design awareness-raising campaigns to prevent trafficking in human beings that address underlying attitudes and social norms that perpetuate vulnerabilities
- Engage in community consultations, and diaspora communities, in designing awareness-raising campaigns to ensure appropriate messaging; produce materials in the language of the targeted audience
- Apply monitoring, follow-up and evaluations to campaigns
- Prevention programmes should not be limited to awareness-raising campaigns focused on the dangers of unsafe migration
- Consult with local, community, religious and customary leaders as potential key actors in prevention

F2 Realistic alternatives to migration

- Bilateral and multilateral cooperation agreements on stemming migration should provide financing to support sustainable alternatives
- Develop programmes that offer livelihood options, including basic education, skills training and literacy, especially for women and other traditionally disadvantaged groups
- Improve children's access to educational opportunities and increase the level of school attendance, in particular by girls
- Countries of origin should review and reform policies that structurally incentivize migration in lieu of robust national development schemes
- Support the sustainable return and reintegration of smuggled migrants and victims of trafficking in human beings following good practices such as the IOM's AVRR programme.

F3 Addressing demand

- Countries of origin and transit should establish regulations for travel and recruitment agencies, and monitor compliance
- Adopt labour migration agreements, including provision for minimum work standards, model contracts, modes of repatriation, etc., in accordance with existing international standards⁴⁵³
- Strengthen labour inspections, labour rights protections and expand the scope of competence of labour inspectorates

453 See, OHCHR, *Recommended Principles and Guidelines*, Guideline 11.4.

- Introduce codes of ethics for companies linked to THB or labour abuses
- Enact legislation requiring corporate responsibility
- Criminalize the use of the services of a trafficked person
- Foster private sector initiatives to ensure supply chains free of exploitation
- Campaigns targeting consumers and private sector industries should be employed to reduce the demand for cheap labour and goods.

G. Data collection, management and sharing

GI Data collection, management and sharing

- Harmonize data collection on SoM and THB across government institutions through inter-agency protocols
- Develop standard operating procedures to guide data collection
- Protect the confidentiality of data, and collect data in a sensitive and appropriate manner
- Disaggregate data by age, gender, nationality and other characteristics
- Ensure capacity-building to enable analysis of information and intelligence gathering
- Data collection and management methodologies must be adapted to the local context
- Provide training to key stakeholders on data collection, analysis and management
- Integrate and mainstream SoM and THB issues into surveys and ongoing data collection efforts
- Information sharing and collection should involve civil society groups working with trafficking victims and smuggled migrants

Conclusions of the report

As the pillars of any anti-THB and anti-SoM strategy, the ACP-EU Dialogue recommendations remain wholly applicable, and much remains to be done to ensure their effective implementation. To this end, the Action provides critical technical backstopping to ACP States and a forum for crossregional dialogue and exchange. Given the centrality of international cooperation, the importance of the Action's role in fostering dialogue among stakeholders across States cannot be underestimated. In light of the interest expressed by ACP stakeholders in regional processes and platforms and in South–South cooperation, the Action's region-focused, cross-border leverage makes it uniquely poised to strengthen State participation in, and compliance with, regional agreements. Regional-level engagement takes on increased importance in light of the recently identified trends in trafficking within regions.

The ACP targets those countries striving to ensure the minimum standards in anti-THB and anti-SoM initiatives operating in difficult contexts. The primary governance challenges pervasive in many countries in the ACP regions must be taken actively into account in order to capitalize on opportunities to address wider systemic obstacles through the lens of THB and SoM. Strengthening migration governance through a whole-of-government approach, involving the promotion of “stability, education and employment opportunities and reducing the drivers of forced migration, including by promoting resilience” would enable individuals to make the choice between staying or migrating by addressing the root causes of the vulnerability that enables these crimes.⁴⁵⁴

Ensuring safe and orderly migration also involves mitigating the risks associated with the movement of people. IOM has noted that maintaining “the integrity of migration and mobility schemes requires an ability to detect irregular migration and to prohibit illegal cross-border activity.”⁴⁵⁵ Migration and border agencies should thus work with national and international justice and security agencies to collect, analyse and use information intelligence to address both trafficking in human beings and smuggling in migrants. Building the capacity of border management, and fostering regional-level, cross-border cooperation is essential, given the international nature of migrant smuggling and the large percentage of trafficking that occurs transnationally.

454 IOM, Migration Governance Framework. Available from www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf.

455 IOM, Migration Governance Framework.

Indeed, increased capacity to conduct investigations across law enforcement bodies should be the focus of future technical support. The absence of resources and organizational practice in conducting proactive investigations constitutes the biggest obstacle to successful prosecutions. The over-reliance on victims' statements and in-court testimony for prosecuting traffickers compromises victims' protection needs, as well as the strength of the prosecution, in light of the absence of corroborating evidence. Few ACP States have engaged in tackling the monetary dimensions of the crimes: the confiscation of assets, tracking illicit financial flows and addressing demand. Requiring human, technical and financial resources and a proactive, more strategic approach, attention to these issues could be phased into the Action's TA provision.

Outside of the confines of strengthened law enforcement to combat transnational organized crime, support for comprehensive law, policy and interventions addressing the roles of social networks, social norms and traditional cultural practices with an expanded scope of stakeholders holds important promise for the way forward. Addressing root causes at the family and community levels mean tackling such issues as gender-based violence as a push factor and parental involvement in the commercial sexual exploitation of children. Increased attention should also be paid to the role of social norms, as well as to long-standing and evolving cultural practices that not only increase vulnerability, but also feed directly into trafficking in human beings and migrant smuggling, including *talibé* and *confiage*. Given that "family members and social networks play a vital role,"⁴⁵⁶ targeting new stakeholders, such as village and customary chiefs, might offer not only critical information about these phenomena, but also might play a significant role in prevention. Similarly, attention to the role of diaspora communities in facilitation, and in fostering myths about migration, could be an important potential entry point for prevention interventions.

The near exclusive focus on criminal justice efforts in the early years of combating trafficking in human beings, without the attendant focus on the rights and needs of the victims proved an important lesson-learned for international stakeholders. The absence of resources and capacity to protect the rights of victims and ensure their access to services constitutes one of the biggest gaps in the compliance of ACP States with international standards. As demonstrated by best practice around the world, increased respect for the rights of victims translates into improved prosecution rates.

456 European Commission, DG Migration & Home Affairs, *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries* (2015).

The Action's provision of TA to date has gone to States, with support to NSAs contemplated for the future. In addition to strengthening NSA capacity, the Action's new target for support as the potential to further foster much needed State-NSA cooperation. Increased NSA involvement in policymaking on, and response to, THB and SoM can play a significant role in fostering improved governance, as it fosters transparency and inclusive policymaking. In light of the role of NSAs in providing assistance and protection to trafficking victims and smuggled migrants, the Action's forthcoming support to NSAs will also offer an important opportunity to improve the application of a victim-centred, human rights-based approach, and an increase in the availability of data on victims, smuggled migrants and the services provided to them.

Furthermore, the ongoing inability to distinguish the crime of trafficking in human beings with that of migrant smuggling, on the one hand, coupled with weak identification of trafficking victims and the failure to recognize smuggled migrants as possible victims of serious human rights violations rather than as criminals unfortunately characterizes the current situation on the ground in too many States. Awareness-raising among front-line State actors is essential to move toward a victim-centred, humane approach toward both phenomena.

Finally, the absence of national-level and regional data for each of the three ACP regions constitutes one of the biggest obstacles to tackling both crimes. The Action's support for studies and the development of data collection tools to address the generalized absence of reliable information upon which to develop evidence-based policies constitute basic first steps in several States. This should remain a focus of its attention, as States make the slow and resource-heavy transition from primarily paper-based data collection to digital information management systems.



IV

**Country
fiches**

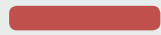
Overview of projects



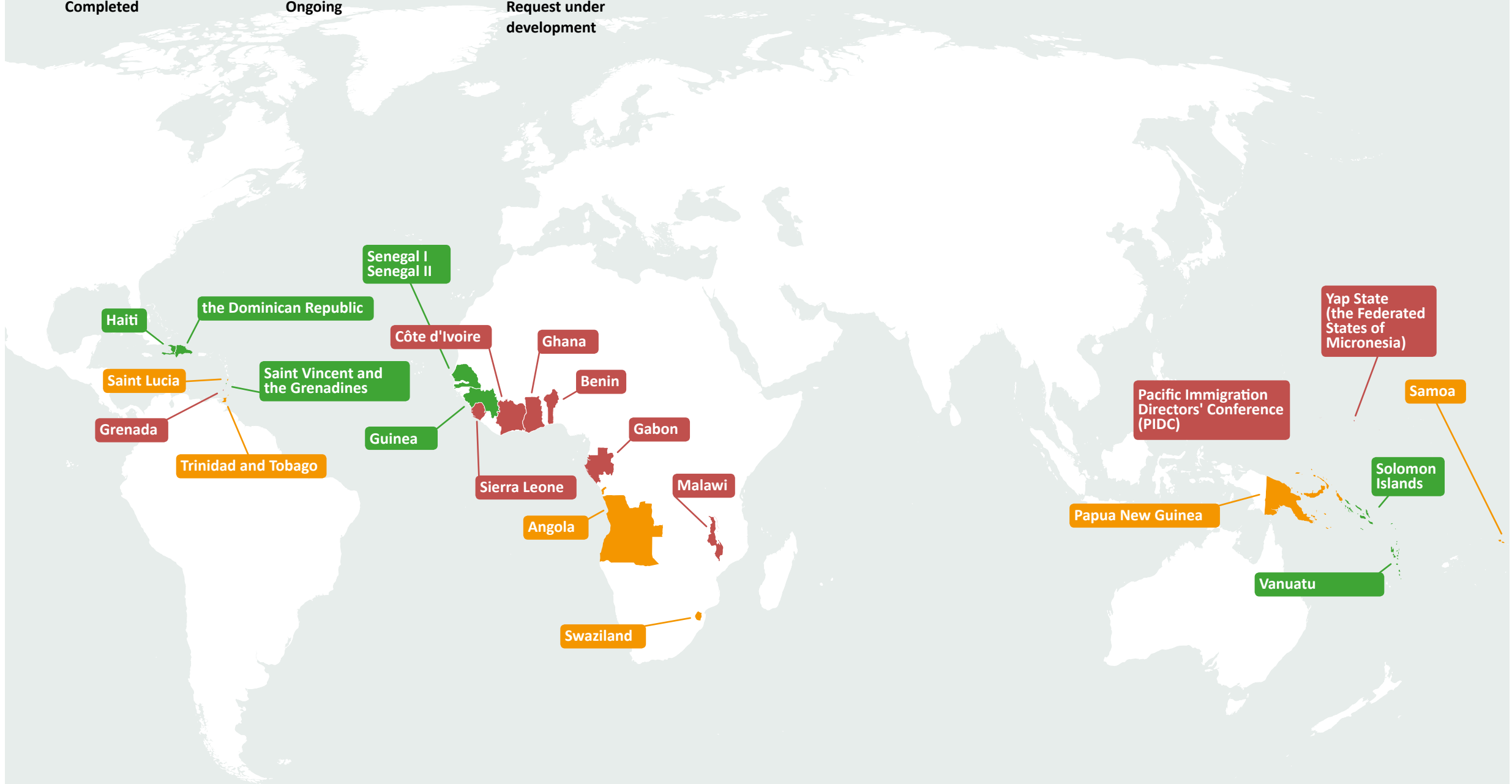
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Ongoing



Request under development





SENEGAL I

Mapping at-risk and departure zones of irregular migration

Requesting entity

Direction Générale des Sénégalais de l'Extérieur (DGSE)

Category

Studies & Research for Governments

Tags

Anti-trafficking and anti-smuggling legislation and its implementation; Public awareness and sensitization; Realistic alternatives to migration; Cultural and social norms

COMPLETED

The objective of this Technical Assistance was to develop an assessment on the phenomenon of trafficking of women and children through domestic servitude in Senegal. Systematic data collection and analysis are necessary to develop evidence-based policies to tackle this problem.

ACTIVITIES

SECONDARY RESEARCH

Secondary research (prior studies, reports academic papers, etc.) produced by State and non-State actors, researchers and international organizations containing quantitative and qualitative data pertaining to the mapping.

FIELD RESEARCH

Interviews were organized during surveys and field visits conducted in all regions of Senegal, except Thiès and Kaffrine.

MAPPING

A comparative analysis of the data collected revealed the need to differentiate between real and apparent zones of departure, and transit and exit zones. All regions of Senegal were classified under one of these four categories.

- Each law should conform to international standards by containing all the constituent elements of the crimes, ensure the protection of victims and designate the institutions responsible for their implementation and coordination at all levels.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Improve the availability and reliability of migration data;
- Promote economic activities rather than initiatives limited to addressing basic social needs;
- Change the approach towards providing information and awareness-raising on the risks of migration;
- Trafficking in human beings and migrant smuggling should not be criminalized within the same piece of legislation;



SENEGAL II

Assessment of the trafficking of women and children for domestic servitude

Requesting entity

Cellule Nationale de Lutte contre la Traite des Personnes

Category

Studies & Research for Governments

Tags

Gender, age and other characteristics of vulnerability; Comprehensive legislative and policy framework

COMPLETED

The objective of this Technical Assistance was to develop an assessment on the phenomenon of trafficking of women and children through domestic servitude in Senegal. Systematic data collection and analysis are necessary to develop evidence-based policies to tackle this problem.

ACTIVITIES

BASELINE ASSESSMENT

The assessment was based on primary and secondary research, including quantitative and qualitative surveys among 188 persons in diverse regions, especially women domestic workers, and key stakeholders, such as government actors, civil society organizations, international NGOs and UN agencies.

CREATION OF A PROFILE OF DOMESTIC WORKERS IN SENEGAL AND ANALYSIS OF TRAFFICKING FOR DOMESTIC SERVITUDE

The assessment found that 97,5 per cent of women and girls engaged in domestic work are victims of exploitation to varying degrees and not always continuously. The youngest girls are primarily affected. Live-in domestic workers face highly exploitative working conditions as domestic work remains unregulated without work inspections, and is characterized by significantly unequal power relations between employers and employees.

MODUS OPERANDI FOR TRAFFICKING FOR DOMESTIC SERVITUDE

The analysis describes the modus operandi of the perpetrators of trafficking for domestic servitude who interact with each other or function independently. The study demonstrates that employers are the principal, but not the sole perpetrators of trafficking for domestic servitude. Others include recruiters and landlords of boarding houses where domestic workers reside. The assessment underscores the negative impact of trafficking for domestic servitude on young girls.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Revise the legal framework to render it more coherent and promote its application in cases involving the exploitation of domestic workers;
- Ratify ILO Convention No. 189, and harmonize national legislation, including regulating national and international job recruitment. Increase bilateral cooperation to effectively combat trafficking networks through the development of a common approach to managing migration based the protection of the rights of migrant workers;
- Encourage migrant workers to register their contract with the Ministry of Foreign Affairs prior to departure and present it to the authorities of Saudi Arabia on arrival;
- Increase data collection on girls engaged in domestic work, including those assisting street vendors, in order to develop specific policies to prevent their exploitation and address the negative impact on their lives;
- Remove underaged girls from their engagement as domestic workers and reinsert them in educational programmes;
- Promote increased opportunities for formal and informal education, and support professional and vocational training for girls excluded from the educational system;
- Regulate domestic work as a recognize form of work, and raise awareness of its potential for exploitation.



GUINEA

Evaluation of national mechanisms for counter-trafficking and victim support

Requesting entity

Comité National de Lutte contre la Traite des Personnes

Category

Studies & Research for Governments

Tags

National strategies and action plans; Primary governance concerns; Cultural and social norms; Victims' rights to protection and assistance

COMPLETED

The objective of this Technical Assistance was to conduct an exhaustive analysis of counter-trafficking mechanisms in place in Guinea, with the ultimate goal to reinforce and harmonize them.

ACTIVITIES

EVALUATION OF POLICIES FOR COMBATING TRAFFICKING IN HUMAN BEINGS

Analysis on the strengths and weaknesses of national policies to combat trafficking in human beings.

EVALUATION OF POLICIES ON VICTIMS PROTECTION

Analysis on the strength and weaknesses of policies for victim protection.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Increase the involvement of technical and financial partners and potential partners, including national NGOs and subnational actors;
- Elaborate a national policy on the protection of, and assistance to, trafficking victims and develop a system for following up on the repatriation, rehabilitation and reintegration of adult and child victims;
- Develop a budgeted work plan and adopt a multisectoral approach, and improve cooperation at the prefecture level and administrative regions, especially on the provision of victim assistance and referrals;
- Adopt and disseminate CEDEAO directive to protect the rights of child trafficking victims, and ensure the application of law on child labour.

- Disseminate the relevant legal framework, including regulations, circulars, directives and instructions for border management personnel;
- Advocate for adequate budgetary allocations, and the establishment of a national fund to combat trafficking in human beings;
- Support the establishment of a bilateral agreement between Guinea and Senegal on trafficking in human beings;
- Integrate trafficking in human beings issues into trainings for magistrates, police, gendarmes, teachers and social workers, including on identification and victim protection;
- Increase participation by national actors in international meetings and events concerning trafficking in human beings;
- Strengthen the capacity of social workers and other stakeholders in the provision of psycho-social assistance to trafficking victims, including children;
- Raise the awareness of religious leaders and employees of commercial transportation on the identification of trafficking in human beings and legal implications;
- Establish a national structure to collect and analyse data on trafficking in human beings, including a database on convicted persons.



DOMINICAN REPUBLIC

Strengthening the Specialized Prosecutor’s Office investigation, prosecution and management of counter-trafficking cases

Requesting entity

Procuraduría Especializada contra el Tráfico de Migrantes y Trata de Personas (PETT)

Category

Policy analysis/revision

Tags

Anti-trafficking and anti-smuggling legislation and its implementation; Data collection, management and sharing; Victims’ rights to protection and assistance

COMPLETED

Through the development of Standard Operating Procedures and an information management system, this Technical Assistance aimed at strengthening and harmonizing migrant smuggling and trafficking in human beings response in the Dominican Republic.

ACTIVITIES

STANDARD OPERATING PROCEDURES

Operational Guidelines on the investigation of migrant smuggling and trafficking in human beings were developed from the systematization of accumulated experience within the PETT and the work of IOM and UNODC. The Guidelines constitute a practical working tool for the auxiliary investigative agencies of the Prosecutor’s Office and its own investigators in order to increase and improve investigations and convictions.

SURVEY, DOCUMENT REVIEW AND WORKSHOPS

A survey was developed to analyse the experience and knowledge of criminal investigation agents on migrant smuggling and trafficking in human beings. Multiple work sessions were held with the PETT team to identify good practices, workflow and critical issues in investigation of these crimes. A document review was also conducted on criminal investigations. Two workshops were held on the implementation of the Operational Guidelines on investigations to strengthen the investigative capacity of approximately 60 staff.

INFORMATION MANAGEMENT SYSTEM

Following a needs assessment and in line with international best practice, an information management system (SISOTT), including software, was created as another working tool for the PETT technical team with the specific objectives of

(a) improving the management of migrant trafficking and trafficking in human beings investigations and (b) facilitating the production of information for decision-making and accountability at national and international levels. The system includes a search mechanism and generates statistical information and maps.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Strengthen interagency coordination and cooperation in the investigation of crimes of migrant smuggling and trafficking in human beings with a focus on critical stages in the investigations, ensuring the participation, particularly, but not exclusively, between the Police, Army, Navy and General Directorate of Migration;
- Raise the profile of the Operational Guidelines to a more formal Protocol on investigation and prosecution;
- Digitize data on cases from previous years (2015 to the present) for input into the SISOTT system to accelerate the production of useful data;
- Continually build upon the existing SISOTT system, the basic design of which was contemplated for the flexible addition of future fields and functions as needs arise, as well as for the incorporation of additional institutions over time.



SAINT VINCENT AND THE GRENADINES

Capacity-building and international strengthening to combat human trafficking

Requesting entity

Anti-Trafficking in Persons Unit (ATIP), National Police Force

Category

Capacity-building

Tags

National strategies and action plans; Anti-trafficking and anti-smuggling legislation and its implementation; Data collection, management and sharing; Public awareness and sensitization

COMPLETED

The Technical Assistance aimed at providing a wide range of stakeholders in Saint Vincent and the Grenadines with training on THB, while also gathering data on the extent of THB in the country and developing sensitization material on the phenomenon.

ACTIVITIES

TRAINING NEEDS ASSESSMENT AND TRAININGS

A survey was conducted to assess Saint Vincent and the Grenadines authorities' understanding of THB and related topics and their previous involvement with THB cases. Based on the results, three training topics were agreed upon: (1) What is THB? (2) How to detect THB? and (3) Assistance and Protection of THB victims. The training was delivered to 49 frontline and border officers from 13 different governmental and non-governmental institutions.

POLICYMAKING

The current NAP was evaluated through a rapid mid-term assessment and discussed during a workshop involving both governmental and non-governmental stakeholders. A revised version of the NAP was developed in accordance with the workshop outcomes, in coordination with the ATIP and in line with international standards. The revision addressed shortfalls identified in the mid-term assessment.

INSTITUTIONAL COOPERATION

An MoU was developed, based on good international practice, similar Saint Vincent and the Grenadines MoUs and inputs received from each of the 12 signatory parties, and was signed by relevant stakeholders.

DATA GATHERING

Guidelines for Data Collection on Human Trafficking were developed and made available to ATIP, the Inter-ministerial Working Group and the National Task Force against Trafficking in Persons.

AWARENESS-RAISING

Age-sensitive awareness-raising material, informing on measures to reduce the risk of becoming a THB victim and on THB indicators were made available to Saint Vincent and the Grenadines' citizens. They were developed based on a needs assessment and inputs from men and women across different age groups.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Monitoring on behalf of the ATIPU remains essential to ensure the implementation of the MoU and the revised NAP 2016–2018, the Guidelines for the Data Collection on Human Trafficking and the dissemination of the awareness-raising material;
- The substantial progress in the fight against THB in Saint Vincent and the Grenadines achieved through the TA intervention should be shared with other representatives of the international community. The participation, commitment and ownership shown by the authorities in Saint Vincent and the Grenadines represent strong incentive in contributing to the implementation of the products;
- Use the momentum created by the TA intervention to reach agreements on concrete action points with each stakeholder involved. The MoU and revised NAP 2016–2018 both contain clear references to recommended activities;
- Increase the involvement of stakeholders as the ATIPU cannot implement all actions by itself.



HAITI

Key actions in the fight against trafficking in human beings

Requesting entity

Ministry of Social Affairs and Labour

Category

Institutional and legislative development

Tags

National strategies and action plans; Investigations, prosecutions and convictions; Primary governance concerns; Victims' rights to protection and assistance; Gender, age and other characteristics of vulnerability; Cultural and social norms

COMPLETED

This Technical Assistance was aimed at consolidating the leadership of Haiti's National counter-trafficking Committee and assist them in the development of a National Strategy and Action Plan, based on an in- depth study on the phenomenon of trafficking in the country.

ACTIVITIES

STUDY ON TRAFFICKING IN HUMAN BEINGS IN HAITI

A comprehensive study on trafficking defining the main challenges and needs in Haiti was developed. The study entailed a literature and documentation review, a series of meetings in Port-au-Prince with key stakeholders and focus groups in five regions in Haiti. This resulted in an in-depth report on trafficking in Haiti (Study on Trafficking in Persons in Haiti) and the identification of a series of measures that contributed to the development of a Strategy and Plan of Action.

NATIONAL WORKSHOP

A national workshop was organized in Port-au-Prince in cooperation with the National Committee on Combating Trafficking in Persons and involving key stakeholders from the capital and regions, representing government, police, justice, civil society and donors. The workshop enabled participants to further develop a draft strategy and action plan and reach a common understanding of its content.

STRATEGY AND ACTION PLAN ON TRAFFICKING IN HUMAN BEINGS

A new strategy and a five-year action plan (2017–2022) on combating trafficking in human beings were developed based on the results of the study and consultations at the national workshop, conference.

A NATIONAL CONFERENCE

The First National Conference on Trafficking in Persons was organized in Haiti, at which the

above-mentioned study, strategy and action plan were presented, discussed and commented on.

The conference was held on 21–22 June, 2017 and was attended by more than 200 participants and high-level ministerial representation.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Clarify the elements of trafficking in human beings to stakeholders in order to ensure that not all forms of abuse are treated as THB;
- Expand the scope of efforts to combat trafficking in human beings in order to include adult victims and not just children;
- Foster opportunities for social debate on the factors that make Haiti a high-risk country for trafficking in human beings, including: the high number of institutionalized children and child domestic workers, as well as the internal and cross-border movement of unaccompanied children;
- Consolidate efforts by bringing together informal activities by diverse actors;
- Ensure ongoing training on the identification of victims and the prosecution of the crimes of trafficking in human beings;
- Coordinate statistics from State and NGO actors to address the current absence of data;
- Ensure that the forthcoming National Strategy utilizes existing mechanisms established by the National Child Strategy, and takes into account the recommendations from a panoply of actors.



SOLOMON ISLANDS

Proposal for a scoping study on trafficking in human beings

Requesting entity

Ministry of Commerce, Industry, Labour and Immigration

Category

Studies & Research for Governments

Tags

Comprehensive legislative and policy framework; Investigations, prosecutions and convictions; Primary governance concerns; Victims' rights to protection and assistance; Gender, age and other characteristics of vulnerability; Cultural and social norms; Border management; Addressing demand; Data collection, management and sharing

COMPLETED

The Technical Assistance aimed at the development of reliable data on trafficking in human beings in the Solomon Islands, as well as an improved and sustainable capability to further gather and analyse data on the phenomenon.

ACTIVITIES

RESEARCH

A scoping study on THB and SoM in the Solomon Islands was conducted.

In January 2017, a field trip to Choiseul Province was undertaken in order to: (a) observe the environment where children and young adults are sexually exploited by loggers operating near the communities; and, (b) gather information on the circumstances and factors surrounding what appears to be the almost inevitable trafficking of children once a logging operation has commenced. With a view to gathering feedback from community members living near the logging areas, Save the Children's office in Taro arranged and conducted workshop sessions, posing three questions concerning their experience with logging companies. A review of current relevant legislation was conducted, as well as an assessment of investigatory practices.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Continue with THB awareness training of the Royal Solomon Islands Police Force and expand the training programme to include Solomon Islands Immigration Division (SIID) and the Forestry and Fisheries Department personnel to recognize THB indicators and report suspected cases;
- The draft MoU between SIID and Transnational Crime Unit (TCU) should be signed and implemented;

- Anti-Human Trafficking Advisory Committee (AHTAC) should include law enforcement agencies in regular meetings;
- National Action Plan objectives should be realistic, feasible and measurable and reviewed;
- Implement Standard Operating Procedures (SOPs) on recording information and intelligence and providing this in a timely fashion to a centrally located intelligence unit (TCU);
- Train a dedicated multidisciplinary team to deal with victims of trafficking, focusing on interview techniques and evidence gathering;
- TCU should be identified as the intelligence hub for THB-related data, and a seconded SIID officer should be reintroduced to the TCU on a full- or part-time basis, and a Single Point of Contact (SPOC) for THB (e.g. an officer or officers who can provide guidance on investigations) should be put into effect;
- The SIGNet system should be used to record data on THB, and the analytical capability to assess THB data should be developed;
- Legislation should be introduced to hold companies responsible for the actions of their employees, foreseeing the withdrawal of license to operate and an employee Code of Conduct should be established within logging and fishing companies;
- Mandatory signage should be erected in logging camps, ports of entry and docks, outlining the law on THB, child sexual exploitation, child rights, the penalties for breaches and how to report cases;
- Inspections of logging operations should include the competence of reporting on suspected cases of THB.



VANUATU

Proposal for a scoping study on trafficking in human beings and smuggling of migrants

REQUESTING ENTITY

Transnational crime unit, Vanuatu Police Force (VPF) migration

Category

Studies & Research for Governments

Tags

National strategies and action plans; Comprehensive legislative and policy framework; Investigations, prosecutions and convictions; Primary governance concerns; Victims' rights to protection and assistance; Gender, age and other characteristics of vulnerability; Cultural and social norms; International and regional cooperation; Data collection, management and sharing

COMPLETED



The Technical Assistance aimed at assisting the Vanuatu Police Force, for the first time, to systematically collect and store data of trafficking in human beings and migrant smuggling, based on a report indicating the state of affairs on THB and SoM in the country.

ACTIVITIES

- A scoping study on THB and SoM in Vanuatu was conducted.

MAIN RECOMMENDATIONS AND LESSONS LEARNED

- Review the current legislation with the objective of producing dedicated laws on THB and SoM that adhere to international standards;
- Develop a National Action Plan (NAP) to prevent and combat THB and SoM in accordance with existing plans for countries in the region to foster a common approach;
- Develop Operational Guidelines for police officers on preventing and combating THB and SoM and introduce a module on THB and SoM into the Police Academy training programme;
- Train Police officers to recognize THB and SoM indicators and on proactive intelligence collection as a fundamental element of law enforcement;
- Introduce regular multi-agency trainings on identifying THB and SoM;
- Implement multi-agency, multidisciplinary coordination meetings to ensure a common approach to preventing and combating THB and SoM and to share good practice;
- Raise awareness of senior VPF management and the Ministry of Justice on THB and SoM to ensure officers who are in receipt of specialist training are deployed effectively;

- Appoint a senior Police officer or senior Ministry of Justice official to act as a National Coordinator on THB and SoM whose office has the responsibility to collate statistics and produce annual reports;
- Engage regional partners to develop capacity, as competency and experience already exist within neighbouring countries;
- Implement Standard Operating Procedures (SOPs) on recording information and intelligence and providing this in a timely fashion to a centrally located intelligence unit;
- Use the Police Information Management System to record data on THB and SoM and as an initial intelligence database, and develop analytical capabilities to enable data base assessments;
- The Transnational Crime Unit (TCU) in the Vanuatu Police Force should be promoted as an Intelligence Unit – with (a) trained officer(s) and analytical resources – and act as a single point of contact for THB and SoM;
- The Intelligence Unit should provide routine intelligence reporting on THB and SoM in the territory, as well as develop and maintain an up-to-date understanding on the “trafficking and smuggling” picture in Vanuatu, necessary to support development of operational guidelines and the NAP;
- The current intelligence training programme being delivered by the Vanuatu Australia Police Project (VAPP) should be continued to ensure the intelligence-led policing concept is widely understood and that the training includes senior Police management as well as front-line officers.



ANGOLA

Support for the development of a National Policy and Plan to combat trafficking in human beings

Requesting entity

Ministério da Justiça e Direitos Humanosmigration

Category

Institutional and legislation development

Tags

Anti-trafficking and anti-smuggling legislation and its implementation; Primary governance concerns

ONGOING

This Technical Assistance aims at reviewing the existing Angolan legislation with regards to trafficking in human beings, and will develop a set of recommendations to inform the drafting of a new national policy.

ACTIVITIES

- Undertake a desktop review/assessment of existing legislation in Angola;
- Hold consultation with the different members of the interministerial Commission to Combat Trafficking;
- Draft recommendations to develop a national policy on trafficking in persons;
- Presentation of recommendations to the Ministry of Justice and Human Rights.

EXPECTED RESULTS

- Summary of existing legislation clearly identifying the gaps and opportunities for developing robust anti-trafficking legislation;
- Set of recommendations for drafting a national policy that will guide the stakeholders in: the identification of victims of trafficking, protection of victims of trafficking, successful prosecution of perpetrators and capacity-building for conducting financial investigation aiming at dismantle criminal networks.



SAMOA

Proposal to improve the coordination of the National Border Management Committee in Samoa

Requesting entity

Ministry of the Prime Minister & Cabinet

Category

Policy analysis/revision

Tags

National strategies and action plans; Border management; International and regional cooperation; Cultural and social norms; Public awareness and sensitization

ONGOING



This TA aims at training law enforcement agencies in Samoa to successfully handle human trafficking cases and harmonize the counter-trafficking response.

ACTIVITIES

- Development of standard operating procedures (SOPs) detailing the activities and responsibilities of each member of the NBC – taking into account aspects on protection of the victims and the private sector and civil society organizations;
- Delivery of THB training to law enforcement and border agencies and to health care workers and labour inspectors, among others.

EXPECTED RESULTS

- Having the SOPs in place will enable the NBC to a more coordinated approach and improved efficiency when dealing with cases of THB, smuggling and other border security-related issues;
- Synergies with the work carried out by the Samoan transnational crime unit (TCU) which is linked to the Pacific Transnational Crime Coordination Centre (PTCCC), based in Samoa.



SAINT LUCIA

Capacity-building and public awareness on counter-trafficking

Requesting entity

Ministry of Home Affairs and National Security

Category

Capacity-building

Tags

National strategies and action plans; Investigations, prosecutions and convictions; Public awareness and sensitization

ONGOING

Under this Technical Assistance intervention, trainings on counter-trafficking will be provided to different state and non-state actors as to enhance response capacity, and public awareness on the topic of human trafficking will be raised.

ACTIVITIES

- Designing, testing and delivering material on good practices on counter-trafficking;
- Deliver trainings on these good practices to law enforcement officials, state prosecutors, members of the Task Force and media workers;
- Recommendations on the design of a database for managing and processing information on victims of trafficking;
- Formulation of recommendations for public awareness programs on counter-trafficking.

EXPECTED RESULTS

- Improve capacities on the topic of counter-trafficking for relevant stakeholders dealing with cases of trafficking in persons;
- Produce literature on good practices on counter-trafficking for law enforcement officers.
- Improve the process of monitoring, managing and supporting efforts for victims of trafficking in human beings through the creation of a database;
- Raise general public awareness on the topic of trafficking in human beings.



TRINIDAD AND TOBAGO

Capacity-building and National Policy to combat Migrant Smuggling

Requesting entity

Ministry of National Security

Category

Capacity-building

Tags

Anti-trafficking and anti-smuggling legislation and its implementation; Border management; Investigations, prosecutions and convictions

ONGOING

Under this Technical Assistance, training will be provided to officials in Trinidad and Tobago in order to enhance their capacity to tackle migrant smuggling and the development of national legislation and policy on this topic will be supported.

ACTIVITIES

- Train thirty-five (35) Trinidad and Tobago officials on the topic of the smuggling of migrants;
- Assist with the development of a national policy on smuggling of migrants;
- Assist with the conduction of two interagency consultations with national stakeholders and the subsequent development of outcome documents;
- Advise officials of the Ministry of National Security and the Ministry of the Attorney General and Legal Affairs during the legislative drafting stage of provisions against smuggling of migrants.

EXPECTED RESULTS

- Development of a coherent and multi-agency National Policy on Smuggling of Migrants as to promote migrants' rights, maintain border security and ensure penalization of perpetrators;
- Revision and enactment of new legislation defining the new national approach to the smuggling of migrants and bringing it in line with international obligations and best practices;
- Training of relevant stakeholders on the intricacies of the smuggling of migrants and the role of the Government in treating with this issue.



SWAZILAND

Proposal for a comprehensive study on smuggling of migrants

Requesting entity

Secretariat for the Prevention of People Trafficking and People Smuggling, Prime Minister's Office

Category

Studies & Research for Governments

Tags

National strategies and action plans; Anti-trafficking and anti-smuggling legislation and its implementation; Investigations, prosecutions and convictions; Primary governance concerns; Border management

ONGOING



This Technical Assistance aims at developing baseline data on migrant smuggling in Swaziland, informing the Government on the magnitude of the problem and lead to evidence-based policies.

ACTIVITIES

- Produce a qualitative and quantitative report on the magnitude and scale of migrant smuggling in Swaziland, including the identification of: various methods employed by smugglers; the routes used and the profile of vulnerable population enticed by the smugglers.

EXPECTED RESULTS

- Inform the Task Force in terms of policy development and programme design, based on concrete evidence;
- Help the Emergency Response Team and the Secretariat to identify vulnerable groups and their demographics and provide an insight into the smuggling routes and perpetrators;
- Inform purported regulation on migrant smuggling and further define priority areas for implementing partnerships within and outside government.



PAPUA NEW GUINEA

Expert support in Counter Trafficking in Persons

Requesting entity

Department of Justice
and Attorney General and
People Smuggling, Prime
Minister's Office

Category

Capacity-building

Tags

International and regional
cooperation; Victims'
rights to protection and
assistance; Data collection,
management and sharing

ONGOING

Under this Technical Assistance, training will be developed and provided to different law enforcement agencies in Papua New Guinea, as to enhance their capacity in handling cases of trafficking in human beings.

ACTIVITIES

- Assessment of training needs on trafficking in human beings investigation and prosecution;
- Designing training modules on trafficking in human beings investigation and prosecution for law enforcement officers;
- Delivering training sessions on trafficking in human beings investigation and prosecution for law enforcement officers.

EXPECTED RESULTS

- Enhance national (multi-partner) system of countering trafficking in human beings and an increased understanding in dealing with human trafficking cases from the investigation stage to the prosecution stage;
- Assist in the prosecution (law enforcement) component of the Papua New Guinea's Human Trafficking National Action Plan.

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Glossary

Confiage

French term for a West African cultural practice of confiding one's children to live with an extended family member, where they may be at risk of exploitation; child fosterage.

Forced labour

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.⁴⁵⁷

Irregular migration

Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. For the purpose of this report, the definition is used broadly to encompass those migrants who do not have the necessary authorization or documents under the immigration regulations of the host country, and is therefore used interchangeably with “undocumented migrant”.

Migrant smuggling

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.⁴⁵⁸

Mixed migration

Irregular migration, often using the same routes and means of transportation, but driven by diverse factors, comprised of persons with distinct profiles, including, inter alia, refugees, smuggled persons, economic migrants, victims of trafficking, unaccompanied and separated children, and stranded migrants, all with differentiated needs. Also referred to as “complex population movements”. Migrants can move in and out of these legal categories during the course of their journey and different protection frameworks may become applicable.

National referral mechanism

A framework for identifying victims of human trafficking and ensuring they receive the appropriate support.

Refugee

A person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution⁴⁵⁹.

Restavek

A child in Haiti, often from a rural area, sent by his or her parents to work for a host household, of strangers or family members, as a domestic servant, performing menial tasks for no pay. The term comes from the French *rester avec*, “to stay with”.

Re-trafficking

When a person was trafficked on one occasion, then exited that trafficking situation by any means and then later entered another trafficking situation.

Slavery

The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.⁴⁶⁰

Solair

The engagement of boys by logging and fishing workers as intermediaries to procure young girls for commercial sexual exploitation.⁴⁶¹

Structural violence

The systemic, subtle and sometimes invisible ways in which social, economic and political structures harm or disadvantage individuals.

459 Article 1A(2), Status of refugees convention 1951/1967 Protocol relating to the Status of Refugees.

460 Article 2, Slavery Convention, 1926

461 US Department of Labor, Child Labor and Forced Labor Report, Solomon Islands. Available from www.dol.gov/agencies/ilab/resources/reports/child-labor/solomon-islands, last checked 19 July 2017.

457 Article 2, Forced Labour Convention (No. 29) 1930.

458 Article 2, Migrant smuggling protocol.

Talibé

A boy from Senegal, Guinea or other West African countries who studies the Quran at a daara (the West African equivalent of a madrasa). In most cases talibés leave their parents to stay in the daara and are subject to abuse and trafficking by marabouts, their religious teachers.⁴⁶²

Non-refoulement

A principle of international law which forbids a country receiving asylum seekers from returning them to a country in which they would be in likely danger of persecution based on “race, religion, nationality, membership of a particular social group or political opinion”, as set forth in the 1951 Refugee Convention.

Trafficking in human beings

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.⁴⁶³

Transnational Referral Mechanism

A cooperative agreement for the cross-border comprehensive assistance and/or transfer of identified or potential trafficked persons, through which state actors of different countries fulfill their obligations to promote and protect the human rights of trafficked persons.

Undocumented person

A non-national who enters or stays in a country without the appropriate documentation. This includes, among others: a person (a) who has no legal documentation to enter a country but manages to enter clandestinely, (b) who enters or stays using fraudulent documentation, (c) who, after entering using legal documentation, has stayed beyond the time authorized or otherwise violated the terms of entry and remained without authorization.⁴⁶⁴

462 See, *US TIP Report 2016, Senegal* (finding that “[c]hildren, most of whom are talibes – students attending daaras (Koranic schools) run by teachers known as marabouts – are forced to beg throughout Senegal. In the region of Dakar alone, approximately 30,000 talibés are forced to beg in the streets, and the problem is prevalent throughout the country”). Available from www.state.gov/j/tip/rls/tiprpt/countries/2016/258851.htm; and Human Rights Watch, *Senegal: New Steps to Protect Talibés, Street Children*, 28 July 2016. Available from www.hrw.org/news/2016/07/28/senegal-new-steps-protect-talibes-street-children

463 Article 3(a), Trafficking Protocol.

464 Definition adapted from EU, *Glossary on Migration*. Available from www.ec.europa.eu/home-affairs/e-library/glossary/u_en.

Annex I: Status of signature/ratification of UNTOC and its Trafficking and Smuggling Protocols in ACP States

	UNTOC	
	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
WEST AND CENTRAL AFRICA		
Benin	2000	2004
Burkina Faso	2000	2002
Cabo Verde	2000	2004
Cameroon	2000	2006
Central African Republic		2004a
Chad		2009a
The Republic of the Congo	2000	
Côte d'Ivoire	2000	2012
Equatorial Guinea	2000	2003
Gabon		2004a
Gambia	2000	2003
Ghana		2012a
Guinea		2004a
Guinea-Bissau	2000	2007
Liberia		2004a
Mali	2000	2002
Mauritania		2005a
Niger	2001	2004
Nigeria	2000	2001
Sao Tome and Principe		2006a
Senegal	2000	2003
Sierra Leone	2001	2014
Togo	2000	2004

For the UNTOC, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en

TRAFFICKING PROTOCOL		SMUGGLING PROTOCOL	
Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
2000	2004	2002	2004
2000	2002	2000	2002
2000	2004	2000	2004
2000	2006	2000	2006
	2006a		2006a
	2009a		
2000		2000	
	2012a		2017a
2000	2003	2000	
	2010a		
2000	2003	2000	2003
	2012a		2012a
	2004a		2005a
2000	2007	2000	
	2004a		2004a
2000	2002	2000	2002
	2005a		2005a
2001	2004		2009a
2000	2001	2000	2001
	2006a		2006a
2000	2003	2000	2003
2001	2014	2001	2014
2000	2009	2000	2010

For the Trafficking Protocol, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

For the Smuggling Protocol, see: www.treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en

	UNTOC	
	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
CARIBBEAN		
Antigua and Barbuda	2001	2002
Bahamas	2001	2008
Barbados	2001	2014
Belize		2003a
Cuba	2000	2007
Dominica		2013a
the Dominican Republic	2000	2006
Grenada		2004a
Guyana		2004a
Haiti	2000	2011
Jamaica	2001	2003
Saint Kitts and Nevis	2001	2004
Saint Lucia	2001	2013
Saint Vincent and the Grenadines	2002	2010
Suriname		2007a
Trinidad and Tobago	2001	2007

EAST & HORN OF AFRICA		
Burundi	2000	2012
Djibouti		2005a
Eritrea		2014a
Ethiopia	2000	2007
Kenya		2004a
Rwanda	2000	2003
Somalia		
South Sudan		
Sudan	2000	2004
United Republic of Tanzania	2000	2006
Uganda	2000	2005

For the UNTOC, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en

TRAFFICKING PROTOCOL		SMUGGLING PROTOCOL	
Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
	2010		2010a
2001	2008	2001	2008
2001	2014	2001	2014
	2003a		2006a
	2013a		2013a
	2013a		2013a
2000	2008	2000	2007
	2004a		2004a
	2004a		2008a
2000	2011	2000	2011
2002	2003	2002	2003
	2004a		2004a
	2013a		
2002	2010	2002	2010
	2007a		2007a
2001	2007	2001	2007

2000	2012	2000	2012
	2005a		2005a
	2014a		
	2012a		2012a
	2005a		2005a
2000	2003	2000	2006
	2014a		
2000	2006	2000	2006
2000		2000	

For the Trafficking Protocol, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

For the Smuggling Protocol, see: www.treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en

	UNTOC	
	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
SOUTHERN AFRICA		
Angola	2000	2013
Botswana	2002	2002
Comoros		2003a
the Democratic Republic of the Congo		2005a
Lesotho	2000	2003
Madagascar	2000	2005
Malawi	2000	2005
Mauritius	2000	2003
Mozambique	2000	2006
Namibia	2000	2002
Seychelles	2000	2003
South Africa	2000	2004
Swaziland	2000	2012
Zambia		2005a
Zimbabwe	2000	2007

PACIFIC		
Cook Islands		2004a
Fiji		2017a
Kiribati		2005a
Marshall Islands		2011a
Micronesia (the Federated States of)		2004a
Nauru	2001	2012
Niue		2012a
Palau		
Papua New Guinea		
Samoa		2014a
Solomon Islands		
Timor-Leste		2009a
Tonga		2014a
Tuvalu		
Vanuatu		2006a

For the UNTOC, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en

TRAFFICKING PROTOCOL		SMUGGLING PROTOCOL	
Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)	Signature	Ratification, Acceptance (A), Approval (AA) Accession(a), Succession(d)
	2014a		2014a
2002	2002	2002	2002
	2005a		2005a
2000	2003	2000	2004
2000	2005	2000	2005
	2005a	2000	2005
	2003a		2003a
2000	2006	2000	2006
2000	2002	2000	2002
2002	2004	2002	2004
2000	2004	2000	2004
2001	2012	2001	2012
	2005a		2005a
	2013a		

	2017a		2017a
	2005a		2005a
	2011a		
2001	2012	2001	2012
	2009a		2009a

For the Trafficking Protocol, see: www.treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

For the Smuggling Protocol, see: www.treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en



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International Organization for Migration

Regional Office for the EU, EEA and NATO
40 Rue Montoyer
Brussels 1000, Belgium

Tel.: +32 2 287 70 00

ROBrussels@iom.int / acpeumigrationaction@iom.int
www.eea.iom.int / www.acpeumigrationaction.iom.int

 @IOMROBrussels