



Organization for Security and Co-operation in Europe

Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Speech of Dr. Maria Grazia Giammarinaro

**OSCE Special Representative and Co-ordinator
for Combating Trafficking in Human Beings**

at the

857th Meeting of the OSCE Permanent Council

Vienna, 7 April 2011

Dear Chairperson of the Permanent Council,
Dear Ambassadors,
Ladies and Gentlemen,
Colleagues,

I am delighted to address the Permanent Council this morning, and to share with you my vision and ideas to enhance OSCE efforts to prevent and combat trafficking in human beings, building on the renewed and reinvigorated impetus generated by the Astana Commemorative Declaration, as well as supported and encouraged by the Lithuanian Chairmanship of the OSCE and the Secretary General.

Today I will provide a strategic outlook examining the challenges that we still face in responding to trafficking in human beings as a massive-scale phenomenon of modern-day slavery and a business of organized crime. I will not go into the details of the activities my Office is implementing to fulfil the mandate and support the OSCE and its participating States, as these are well illustrated in the OSR CTHB work programme for 2011, which will soon be circulated.

I will examine in particular the main issues to address in order to make the anti-trafficking mechanisms effective on a larger scale. As I have just said, trafficking in human beings is a massive-scale phenomenon of modern-day slavery. Over the last decade participating States have developed a considerable amount of important international obligations, commitments, recommendations, and specialized policies and programmes to tackle it. Yet, despite the ambitious efforts, their impact remains limited, and we need to work to make all these machineries function much more effectively to achieve meaningful results. I reiterate: meaningful results, which are commensurate with the scale of trafficking in the OSCE region. The limited data available, for example the 5,606 trafficking prosecutions recorded globally in 2009 by the U.S. *Trafficking in Persons Report*, is not at all commensurate with the ILO minimum estimates of 12.3 million in forced labour worldwide, which include at least several hundreds of thousands of people trafficked in the OSCE region. Nor are they proportionate to the estimated annual turnover of this criminal business, which approximates USD 32 billion.¹

I will argue that to achieve better results we have to break the isolation of anti-trafficking policies and practice, and that we must now mainstream anti-trafficking work in related policy areas. In other words, anti-trafficking policy cannot be effective if relevant policy areas such as migration or employment remain unrelated or even dramatically inconsistent with the declared goals of anti-trafficking action.

Mainstreaming is about developing a process to integrate anti-trafficking action into legislation, policies and programmes in related thematic policy areas in order to promote policy coherence. These policy areas include: child protection, women's empowerment, employment and labour market regulation, migration, anti-corruption, and money laundering. I will use some examples to illustrate the connections that exist between trafficking in human beings and these thematic issues, and the need for mainstreaming anti-trafficking action to achieve more effective and meaningful results.

¹ ILO, *A Global Alliance against Forced Labour* (Geneva, 2005).

Trafficking in human beings and child protection

Starting with child protection, I argue that anti-trafficking policy must be combined with national child protection systems and effective implementation and safeguarding of the rights of all children without discrimination. These are essential in order to better prevent all forms of violence against children, including of course child trafficking.

This approach is reflected in the joint statement of the *Alliance on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children*, to enhance Prevention of Child Trafficking, circulated during the Review Conference last year.

For example, the concept of determining the best interests of the child as a primary consideration in all actions concerning children is a fundamental protection principle of the United Nations Convention on the Rights of the Child (CRC), yet the actual implementation of this principle often poses significant challenges. The best interests determination should be based on an individual case assessment, and be carried out for each child who comes in contact with the social protection system to secure an appropriate, durable and safe solution. Such a process should consider, among other factors, the child's family situation, their safety and the risks to which they are exposed, the level of integration in the host country, their mental and physical health, the possibilities for the development of the child, and the adequacy of concrete care arrangements to ensure a safe and secure environment.²

Yet vulnerable children, including those in migratory movements or victims of trafficking, do not always have access to care and to a free and independent legal guardian that can represent them in proceedings and ensure their participation. Sometimes, the lack of guardianship causes long delays in the identification of a durable solution and children in interim care are not informed or involved in the plans made for them; care arrangements may also change too rapidly and not offer a perspective to the child, especially older children. Sometimes migration control concerns risk undermining the best interests of the child; children are held in detention, and automatic solutions prevail, such as a return to the family without undertaking an individual risk assessment. These situations not only imply failure to protect the rights of the child, but also often result in the disappearance of children and in them being exposed to abuse, including the risk of being trafficked or re-trafficked.

Such an approach implies that in order to prevent child trafficking, we should do a better job of protecting every child potentially at risk, especially migrant children, unaccompanied and separated children, undocumented children and children of undocumented parents, and asylum-seeking and refugee children.

I call on participating States to step up the implementation of their international obligations and OSCE commitments and to ensure a thorough and individual process of best interests determination to identify a durable solution for each child taking into consideration his or her best interests, potentially involving return to a country of origin, transfer to another country (for example, for family reunification purposes) or integration in the host country.

² Committee on the Rights of the Child, *General Comment No. 6 Treatment of Unaccompanied and Separated Children Outside Their Country of Origin* (2005), <[http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2005.6.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2005.6.En?OpenDocument)>, accessed 13 April 2010.

Trafficking in human beings and women's empowerment

Women are an invaluable resource to find new ideas and approaches to tackle old and new problems. The same approach of mainstreaming derives from gender discourse, in particular from the Fourth World Conference on Women in Beijing in 1995.³

Gender-sensitive policies have a powerful impact on the prevention of trafficking and a gender perspective is essential to the struggle against trafficking in human beings. In other words, I argue that anti-trafficking policy alone cannot be effective if it is not combined and consistent with efforts to address structural issues such as gender discrimination and inequality, and gender-based violence, which are concurrent root causes of trafficking in human beings.

Furthermore, migration policy should be gender-sensitive. Half of the world's 200 million migrants are women.⁴ Nevertheless, migration policies and opportunities are still largely oriented towards men.⁵ Women are more likely than men to be underemployed in jobs below their education and skill levels, and mostly work in sectors that are thought of as traditionally female. Migrant women, often in spite of their high level of education and skills, are also generally employed in unskilled and unregulated sectors of the labour market such as domestic work, which puts them at a greater risk of abuse and trafficking. In order to ensure better protection of women and girls from risks and abuse, and avoid discrimination and unequal treatment of female migrants, we need to establish and/or enhance gender-sensitive labour migration policies and practices. I call on you to step up the implementation of the OSCE Ministerial Council Decision N.5/09 on Migration Management, which "encourages the participating States to incorporate gender aspects in their migration policies, noting the recommendations of the OSCE-produced Guide on Gender-Sensitive Labour Migration Policies".

Strategies aimed at the economic, social and legal empowerment of women, including female migrant workers, contribute to decreasing their vulnerability to trafficking in human beings. Investing in women's empowerment means addressing gender discrimination and gender-based violence, which are often critical to creating vulnerability to trafficking in human beings. Empowerment also means improving women's economic options, such as access to microcredit and loans to start small businesses, and vocational training, as well as their overall welfare, which in turn can lift entire families and communities out of poverty. Women in poorer countries, as recently reported by *The Economist*, are more likely to spend their income on food, education and healthcare for their children, creating powerful, positive and measurable benefits to society.⁶ In some countries, the increase in female employment has been the main driving force of economic growth during the past few decades.

³ UN Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, A/CONF.177/20/Rev.1.

⁴ OSCE, *Guide on Gender-Sensitive Labour Migration Policies* (Vienna, 2009), p. 14.

⁵ European Commission, *Report of the Experts Group on Trafficking in Human Beings* (2004), p. 147.

⁶ International Women's Day – 8 March 2009, *The Economic Crisis: The Impact on Women*, <http://www.usaid.gov/our_work/cross-cutting_programs/wid/economiccrisis_impactonwomen.html>, accessed 31 March 2011.

Such empowerment strategies are even more necessary today in light of the devastating and disproportionate impact of the ongoing economic crisis on women, exposing them to higher unemployment rates and increased risk of exploitation. Women's empowerment is necessary also to build a decisive barrier against re-trafficking and to create the necessary conditions for the social inclusion of trafficked persons.

Trafficking in human beings, employment policies and labour market regulation

Trafficking victims usually start their journey by looking for a job and more viable opportunities to fend for themselves and their families. A thorough assessment of relevant policies and practices, including employment policies, labour migration policies and labour market regulations, would contribute to better identifying and addressing critical issues for the prevention of trafficking in the first place.

Trafficking for labour exploitation often occurs in economic sectors which are labour-intensive, and unregulated or poorly regulated.⁷ In these sectors, demand for cheap labour has become endemic. Such demand is, in certain instances, fostered through a supply of labour force provided by criminal means, which makes it possible that the cost of the labour force is not only reduced, but almost nullified. This criminal method has already deeply infiltrated various economic sectors such as agriculture, construction, mining, textiles and garments, hospitality and restaurants. What is the threshold beyond which public authorities understand that such methods not only disadvantage, but even disrupt the healthy side of the economy and compromise economic development? What are the labour market regulations that need be reviewed/developed and enforced to prevent such negative consequences?

For instance, information from national investigations confirms that recruitment and job placement agencies, including through internet services, are often used for trafficking. This sector should be strictly regulated and effective monitoring and control mechanisms should be established by governments in co-operation with social partners. This is crucial to protect workers against fraudulent and abusive practices that can lead to trafficking. Furthermore, evidence from trafficking cases also shows that recruitment agencies often encourage migrants to borrow money to cover recruitment fees and expenses relating to the organization of their trip, and that this is often the beginning of abusive and fraudulent practices that either directly lead to trafficking or increase the vulnerability of workers to exploitation. Through a combination of wage deductions, payments in kind and debt manipulations, workers end up in a situation of debt bondage in which they have no other option but to submit to their exploiter.⁸ Mainstreaming anti-trafficking action in labour legislation and policy, therefore, calls not only for licensing and monitoring of recruitment, but also for additional preventive measures such as embedding the principle that fees for recruitment are not charged to workers, not even indirectly.

Another example I wish to mention builds on the work my Office has conducted on trafficking for the purpose of domestic servitude. Domestic work is one of the least protected labour sectors, be it by international standards or State regulations and practices in most OSCE participating States. Domestic workers are often not recognized as real workers;

⁷ Beate Andrees and Patrick Belser (ed. by), *Forced labor: Coercion and Exploitation in the Private Economy* (2009).

⁸ Ibid.; see also OSCE OSR, *Unprotected Work, Invisible Exploitation: Trafficking for Domestic Servitude*, Occasional Paper Series no. 4 (2011).

moreover, the level of rights and protection is usually lower than general labour standards. They are generally underpaid, their work is undervalued, their social security coverage is poor and they often have to work long hours.⁹ This lack of regulation makes domestic workers particularly vulnerable to abuse or even severe exploitation when they fall prey to unscrupulous employers. For these reasons, we recommend regulating domestic work to ensure that all workers enjoy the same protection under labour law and social security provisions. We also recommend promoting these rights by supporting the development of, and eventually signing and ratifying the forthcoming ILO Convention on Decent Work for Domestic Workers.¹⁰

Another aspect of employment legislation and policy to consider relates to the role, mandate and work of labour inspectors, which is critical to detecting trafficking cases. More efforts are needed to step up the action of labour inspectorates, including through increased numbers of inspectors, awareness raising and capacity building.

To sum up this point, the essential message is the need to mainstream anti-trafficking action in labour policy to promote decent work for all and ensure effective implementation of labour standards and enforcement of workers' rights.

Trafficking in human beings and migration

Needless to say, anti-trafficking policy is closely connected to migration issues. Trafficked persons often start off as migrants in search of opportunities for decent work and a better life to improve their difficult living conditions and that of their family. Evidence-based studies show how laws, policies and mechanisms established to prevent irregular migration may contribute to fuelling organized crime networks engaged in smuggling of migrants and trafficking in human beings.¹¹ Let me mention just three examples of the side effects of the lack of policy coherence between migration management and anti-trafficking.

The first relates with the criminalization of irregular migration. The usual *modus operandi* of traffickers is to threaten victims with denouncing them to the authorities, which generates fear of being detained and deported. If these threats of denouncement are followed by actual prosecution and detention as a result of the irregular status of the victim, this fear-mongering will hamper victim co-operation with law enforcement and judicial authorities.

The second example relates to migration regulations which link the issuance of a visa or a permit only to an individual employer. This policy leaves the employee at the mercy of the employer, increases the vulnerability of migrant workers, and establishes a favourable environment for abusive, exploitative or even criminal employers, who can threaten to fire them and denounce them for deportation if they do not agree to the terms of work. The fewer options available to the migrant to change employer or seek support in cases of abuse or exploitative practices, the more vulnerable they are to being exploited.

⁹ OSCE OSR, *Unprotected Work, Invisible Exploitation: Trafficking for Domestic Servitude*, Occasional Paper Series no. 4 (2011), p. 14.

¹⁰ Ibid. p. 64.

¹¹ See for example United Nations, *Human Rights of Migrants*, Report of the Special Rapporteur on the human rights of migrants, Mr. Jorge Bustamante, A/65/222 (2010).

The third example in this area relates to the fact that most migration policies do not support the social inclusion of trafficked persons; on the contrary they often envisage repatriation of trafficked persons even after a successful process of rehabilitation and co-operation with the authorities. Such an approach is not only detrimental to encouraging victims to come forward and denounce their exploiters but it also reflects a very short-term approach that can lead to re-trafficking. In this regard a recent IOM report provides striking evidence of the lack of sustainable results in terms of victim reintegration: estimates of re-trafficking rates are quoted to amount to as much as 45-50 per cent.

To conclude this point, trafficking can be seen as a phenomenon of severe exploitation affecting the most vulnerable segment of labour migration population. Without a human rights-based approach to migration policy, we seriously risk failing both to protect the most vulnerable and to tackle the organized crime aspects which lie behind many cases of irregular migration and trafficking.

Trafficking in human beings and anti-corruption policies

Trafficking in human beings, for whatever form of exploitation, would not have spread on such a massive and global scale without corruption, which is both a driver and a consequence of this crime. For this reason the OSCE Action Plan to Combat Trafficking in Human Beings specifically calls on the OSCE participating States to combat corruption.

The opportunities for corruption are multiple, and they all are used by criminals and corrupt public officials to ensure that that the criminal process goes smoothly at all stages, including recruitment, provision of documents to victims, transportation, border-crossing, control and exploitation, and laundering of the proceeds made from trafficking in human beings. Corruption affects police, customs, visa officers/embassy personnel, border control, immigration services, other law enforcement agencies, prosecutors, investigative judges, local officials, intelligence/security forces, armed forces (national or international), and persons/groups/parties with “influence”, even parliamentarians, private sector actors, such as travel agencies, airlines, transportation sector, financial institutions, banks, etc.¹² Corrupt practices range from passive (ignoring or tolerating trafficking) to active participation in, or even organizing trafficking in human beings, including committing a violation of duties, obstructing investigations, prosecution, judicial proceedings and access to justice, revealing and selling information, issuing false or fraudulent documents, and betraying and perverting the course of justice.¹³

The environment is still one of high impunity as the risks for corrupt officials are still virtually non-existent. Therefore anti-trafficking action needs to be combined with anti-corruption measures which, to be effective, should simultaneously tackle prevention and repression of corruption linked with trafficking.

Trafficking in human beings and anti-money laundering policies

¹² Anti-Slavery, Transparency International and UNODC, “The role of corruption in trafficking in persons” (2009), p. 7.

¹³ Programme against Corruption and Organised Crime in South-eastern Europe, Project PACO Networking, Trafficking in human beings and corruption, Report on the regional seminar, Portoroz, Slovenia, June 2002, p. 7.

Money laundering is another integral component of trafficking in human beings which allows the proceeds of crime to flow into the legal economy and bring “legalized” profit to the traffickers. Real estate and related activities – from construction and restoration to property investment companies and real estate agencies – are the most common tools habitually used by organized crime to launder money, in addition to maintaining a luxurious lifestyle.¹⁴ Until recently, trafficking in human beings and money laundering remained the least explored and understood in the trafficking process, but it is high time to step up our efforts to make the trafficking picture complete, including first of all, efficient prosecution of trafficking in human beings and related crimes. Let me reiterate: as trafficking in human beings is profit-driven, it is imperative to find, freeze and forfeit the proceeds of crime.

This requires the use of financial investigations on a routine basis as well as on a large scale. So far this investigative tool has been underutilized or almost never applied in cases of trafficking in human beings. The use of financial investigations is particularly important to trace the proceeds of crime in a country in which such proceeds are usually reinvested and laundered, most notably in countries of origin. This requires decisive improvements in law enforcement and judicial co-operation, especially between the country in which exploitation takes place and the country where profits are reinvested. Mainstreaming trafficking in human beings would also entail encouraging the banking sector to investigate and build controls concerning money laundering, and other illegal money transfers related to trafficking cases.

In accordance with my mandate to assist the participating States in the implementation of their anti-trafficking commitments, in September 2011 we will convene an expert workshop on trafficking in human beings and money laundering, in close co-operation with the Office of the OSCE Co-ordinator for Economic and Environmental Activities, SPMU and the UNODC. We expect that our new partner, Financial Action Task Force on Money Laundering and Financing of Terrorism (FATF) will present its forthcoming report on Money Laundering Risks Arising from Trafficking in Human Beings and the Smuggling of Migrants. My Office has contributed to the report at the preparation stage, and has assessed it as a valuable new tool for the participating States.

Conclusion

I have illustrated with various examples the complexity of anti-trafficking action and the challenges of fostering coherence across various policy areas, with a view to enhancing anti-trafficking action. To achieve this result, national anti-trafficking co-ordinating mechanisms have to take the lead and effectively implement a multidisciplinary approach by engaging old and new partners and mainstreaming a human rights-based approach into all relevant policy areas.

In conclusion, I am convinced that we need a better understanding of trafficking as a complex phenomenon of modern-day slavery and a transnational threat to security. At the same time, we need a more sophisticated approach to anti-trafficking action as a combination of coherent approaches and measures in a number of connected policy areas. Thanks to its long-standing human rights-based and holistic approach to the anti-trafficking action, the OSCE is well-

¹⁴ EUROPOL, *OCTA 2009, EU Organised Crime Threat Assessment*.

placed and ready to take the lead in this new phase of the struggle to eradicate trafficking in human beings.