

Discussion Paper
**Consultation of the Special Rapporteur on trafficking in persons, especially women
and children**

**Regional and sub-regional cooperation in promoting a human rights-based
approach to combating trafficking in persons especially in women and children**
Dakar, 4 -5 October 2010

October, 2010

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1. Introduction

This paper aims at identifying some of the key issues relating to the role of regional and sub-regional organizations in the promotion of a human rights-based approach to combating trafficking in persons, especially in women and children. Drawing on information provided by several regional mechanisms in response to a questionnaire¹ circulated by the Special Rapporteur in 2009, this paper uses non-exhaustive illustrative examples to highlight good practices and identify areas of challenges, and presents suggested discussion points around these.

It is hoped that the paper will serve to stimulate further dialogue and deepen the discussion among participants at the consultation around the main findings and recommendations of the Special Rapporteur's report to the 14th session of the Human Rights Council (June 2010).² It is further hoped that the discussions will enable sharing of information, particularly on current trends and good practices that can be drawn from the anti-trafficking activities of regional mechanisms, as well as on challenges faced. The paper also aims to stimulate discussion around how regional mechanisms can cooperate and form partnerships with other stakeholders to more systematically integrate a human rights-based approach into their trafficking-related activities and programmes.

The key issues identified in this paper are those around which it is proposed that discussions and interventions be structured. These issues are presented, in accordance with the draft agenda, under the following headings: normative and institutional frameworks; prevention; protection, recovery and reintegration of trafficked persons; protection of specific groups, including gender-sensitive perspectives and child-centered approaches; and enhanced cooperation and partnerships.

Considerable progress has been made in all regions in terms of elaborating human rights standards in relation to trafficking at the regional level, and these standards are increasingly aligned with those set out in international law, including human rights law. When it comes to implementation of these standards, and monitoring of their implementation, regional mechanisms have taken widely different approaches. It is therefore suggested that the consultation include a discussion of how regional mechanisms could learn from each other's experiences in the area of **institutional frameworks** established to implement standards as well as experiences in setting up bodies to monitor the implementation of these standards.

Regarding **prevention**, there appears to be considerable agreement on the importance of concerted action to prevent trafficking from taking place but a wide variety of approaches have been adopted to reach this common goal. This discrepancy has presented some challenges at national, regional and international levels. This consultation therefore aims

¹ See standard questionnaire in Annex I below

² A/HRC/14/32, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, on Regional and sub-regional cooperation in promoting a human rights-based approach to combating trafficking in persons.

to examine how regional mechanisms could contribute to identifying solutions at these different levels, possibly in collaboration with each other and other actors.

The area of **protection, recovery and reintegration** of trafficked persons appears to be in a relatively early stage of development by regional mechanisms. Nevertheless, regional mechanisms have a strong potential to provide an added value to efforts undertaken at other levels to strengthen protection, recovery and reintegration. One encouraging and promising indication is the wealth of practical tools developed at the regional level. These tools could potentially enhance significantly the promotion and protection of the rights of trafficked persons to adequate protection, possibly not only within but also between regions.

Equally vital from a human rights perspective is the **protection of specific groups**, notably through gender-sensitive and child-centred approaches to anti-trafficking work. Alongside good practices, there appear to be a number of gaps in this regard. In some cases, for example, boys and men are wholly excluded from initiatives aimed at prevention, protection and prosecution in relation to trafficking in persons. There are also instances in which women and girls are deprived of their agency as legislation and practices ostensibly designed to protect them may have the effect of hindering the enjoyment of some of their human rights. As regards the special protection accorded to children by international law, a promising approach taken in some regional initiatives is the adoption of the ‘best interests of the child’ principle in the determination of any action concerning children. It is proposed, therefore, that discussions include an exchange of good practices in this area as well as lessons learned in the search for solutions to any gaps and obstacles.

Strengthening regional mechanisms for **enhanced cooperation and partnerships** is yet another area in which there appears to be a large amount of agreement in principle. Significant efforts have been made towards this objective, but a number of challenges and obstacles appear to remain. It is therefore proposed that discussions explore how these remaining challenges and obstacles may be overcome at the regional level.

Annex II consists of the full list of recommendations contained in the Special Rapporteur’s above-mentioned report, and is intended to provide further guidance in focusing discussions.

2. Context

Regional organizations and mechanisms across the globe have traditionally played a crucial role in the development and implementation of human rights standards, and in this regard appear particularly well-placed to contribute to the promotion and protection of human rights in relation to trafficking in persons. The human rights-based approach consistently advocated both by the Special Rapporteur and by the OHCHR through its Recommended Principles and Guidelines on Human Rights and Human Trafficking³, allows for a comprehensive and effective way of tackling trafficking in persons, putting the rights of trafficked persons at the centre of all efforts to counter this phenomenon..

³ *ibid*

Such an approach notably also allows for the effective prosecution of traffickers, by putting the emphasis on the right of trafficked persons to an effective remedy.

An increased recognition of regional mechanisms' key role in combating trafficking in persons through a human rights-based approach is both necessary and timely. In this context, it is worth noting the unique position of regional mechanisms at the interface of international action and local realities. It is also worth noting the growing momentum for concerted action to tackle trafficking, as seen through initiatives such as the recent adoption by the United Nations General Assembly of a Global Plan of Action against Trafficking in Persons.⁴

The Special Rapporteur in 2010 presented to the Human Rights Council a report on the role of regional and sub-regional organizations in the international effort to counter trafficking in persons. The report notes an extraordinary number of encouraging and innovative initiatives taken by regional mechanisms in cooperation with their respective member states and in some cases also in collaboration with other actors, such as other regional mechanisms; UN agencies, international organizations; civil society organizations and the private sector. Particularly encouraging is the amount of progress already achieved in terms of the development of standards at the regional level.

The report also notes with concern that a number of regional mechanisms still do not address the trafficking phenomenon in a comprehensive manner, failing to take a victim-centred and human rights-based approach to combating trafficking. Furthermore, it appears that with a few notable exceptions, regional mechanisms have not sufficiently seized the opportunity to enhance their own and counterparts' incorporation of a human rights-based approach through the identification and sharing of lessons learned, good practices and challenges.

In general, the regional and sub-regional mechanisms operate using very different modalities. In some cases, organizations created with broad cooperation objectives decided to include the fight against trafficking in their activities. In others, new regional cooperation mechanisms have been created solely for the purpose of combating trafficking in persons. This raises the important questions of the extent to which these different modes of cooperation are directly comparable, and which types of arrangements are likely to be most effective at different levels of cooperation and in different contexts.

3. Normative and Institutional Frameworks

The development of normative standards and effective institutional arrangements at the regional level are primordial steps towards building an effective strategy to combat trafficking in persons and this has largely been addressed by the regional organizations surveyed. A fair amount of progress has also been made in gradually incorporating a solid human rights-based approach into instruments and institutional arrangements.

⁴ A/64/L.64, United Nations Global Plan of Action against Trafficking in Persons, adopted by consensus by the UNGA on 30 July 2010.

3.1. Normative instruments

The Special Rapporteur has noted that the **Council of Europe (CoE)** Convention on Action against Trafficking in Human Beings⁵ is an excellent example of using a rights-based approach to combating trafficking in persons by means of a binding legal instrument. While it also aims at preventing trafficking and prosecuting traffickers, the CoE instrument is the only regional international treaty in this area that primarily focuses on the protection of the rights of the victims. The Convention, which entered into force in 2008, has been ratified by 30 out of the 47 member states of the CoE, and has been signed by a further 13 member states. Importantly, the Convention is open to ratification by States which are not members of the CoE (no non-members have signed to date) and by the European Union.

Building on the CoE anti-trafficking Convention as well as on the UN Trafficking Protocol (also known as the Palermo Protocol)⁶, the **European Commission** proposed in March 2010 a ‘Directive on preventing and combating Trafficking in Human Beings and protecting Victims’. Currently under negotiation with the European Parliament and Council of the EU, the Directive will replace the previous Framework Decision on Preventing and Combating Trafficking in Human Beings.⁷ In addition to a common definition of the crime of trafficking, the proposal introduces more robust provisions for the protection of, and unconditional assistance to, trafficked persons. Whilst the final text of this Directive is still to be determined, it is encouraging that the proposal includes several provisions in line with a human rights-based approach and the increased role of the European Parliament in determining its content appears to be an additional added value.

Besides its core instrument, the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution⁸, the **South Asian Association for Regional Cooperation (SAARC)** has adopted two important instruments relating to trafficking which complement its core trafficking instrument, namely: the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia⁹; and the SAARC Social Charter.¹⁰ The former has been ratified by all SAARC member states and entered into force in November 2005 together with the SAARC Trafficking Convention. Article VI of the Social Charter reaffirms member states’ commitment to effectively implement the Trafficking Convention and to combat all forms of trafficking and exploitation of women, including through the cooperation of appropriate sections of civil society. While the adoption of these complementary instruments is encouraging,

⁵ Council of Europe Convention on Action against Trafficking in Human Beings, CETS No.: 197, See: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=8&DF=27/10/2010&CL=ENG>.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), United Nations, *Treaty Series*, vol. 2237, p. 319; Doc. A/55/383

⁷ Council Framework Decision of 19 July 2002 on combating trafficking in human beings. See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0629:EN:NOT>

⁸ See Convention at <http://www.saarc-sec.org/userfiles/conv-trafficking.pdf>

⁹ See Convention at: <http://www.saarc-sec.org/userfiles/conv-children.pdf>

¹⁰ See Social Charter at: <http://www.eias.org/luncheons/saarc220104/socialcharter.pdf>

SAARC's core trafficking Convention primarily focuses on judicial cooperation for the prosecution of traffickers and limits its application to women and children thus excluding trafficking of men and boys. In addition this Convention does not apply to trafficking for the purposes of labour exploitation and the removal of organs which may arguably reduce its effectiveness, not least in the area of prevention.

At the level of the **African Union (AU)**, the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children¹¹, was adopted by Ministers of Foreign Affairs, Migration and Development from Africa and the EU in November 2006, at the Africa-EU Ministerial Conference on Migration and Development, held in Tripoli in the framework of the Africa-EU Partnership on Migration, Mobility and Employment. The Action Plan provides for specific recommendations to be implemented by Regional Economic Communities (RECs) and Member States based on a three-pronged strategy: prevention; protection of victims; and prosecution of those involved in the crime of trafficking. A second Action Plan, for 2011-2013 is due to be adopted at the third EU-Africa Summit scheduled for November 2010. While it is encouraging that the issue of migrant's human rights feature both in the original Plan and even more prominently in the draft Plan for 2011-2013, neither plan appears to make the same explicit link between human rights and trafficking in persons.

In the **Organization of American States (OAS)** region, the Inter-American Convention on the International Traffic in Minors¹² and the call by several resolutions of the OAS General Assembly for human rights-focused measures to combat trafficking¹³ are commendable. The protection and promotion of the rights of trafficked persons would be further strengthened, however, through the development at the OAS level of an instrument covering all forms of trafficking and incorporating some of the human rights-focused measures called for in these resolutions.

Like the EU, the **Organization for Security and Cooperation in Europe (OSCE)** and the **League of Arab States (LAS)** have opted to base their regional work in relation to trafficking on binding decisions adopted by their respective Councils of Ministers. The **Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT-Mekong)**, which operates at the sub-regional level and involves cooperation between a wide range of stakeholders, has opted for a Memorandum of Understanding (MOU) adopted at the ministerial level rather than a Convention to guide collective efforts.

3.2. Work plans

A key added value of regional mechanisms is the adoption of common regional work plans which set out joint strategies and actions to be taken within the region. This has proved to be a key step to providing a sound platform on which States may shape their national policies, and at the same time contributing towards coherence within regions.

¹¹ Action Plan available on website of African Union: www.africa-union.org

¹² OAS, TREATY SERIES, NO.79: http://www.oas.org/dil/treaties_B-57_Inter-American_Convention_on_International_Traffic_in_Minors.htm

¹³ See resolutions at: <http://www.oas.org/consejo/comgral/VARIOUS.asp>

The **OSCE** adopted an Action Plan to Combat Trafficking in Human Beings, through a Ministerial Decision in 2003. The Plan is intended as a comprehensive toolkit to help OSCE participating States to implement their commitments to combating trafficking in persons. It adheres to a human rights and multidimensional approach to combating trafficking, covering protection of victims, prevention, and the prosecution of those who facilitate or commit the crime. It provides extensive recommendations as to how participating States and relevant OSCE institutions, bodies and field operations may best deal with political, economic, legal, law enforcement, educational and other aspects of the problem.

In the **OAS** region, the Conclusions and Recommendations of the Second Meeting of National Authorities on Trafficking in Persons¹⁴ in 2009 request the OAS General Secretariat to prepare “a Draft Work Plan, to be considered by the Committee on Hemispheric Security, bearing in mind the progress made at the sub-regional level, as well as at the international level, avoiding duplication of effort and generating enhanced coordination.”¹⁵ The document also requests the OAS Secretariat to develop comparable parameters on legal frameworks, prevention, prosecution of crime, assistance and protection for victims and intergovernmental cooperation on trafficking in persons. The Special Rapporteur is encouraged by the adoption of this regional work plan in April 2010¹⁶

Since 2005, the main instrument guiding action at the level of the **EU** in the area of trafficking in persons is the EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings¹⁷, which aims to combat trafficking for the purpose of all forms of exploitation and to provide protection, support and rehabilitation of trafficked persons. A revised instrument, in the form of a Commission Strategy, is foreseen for adoption in 2011.

At the level of the **AU**, the first in a series of regional workshops on operationalising the Ouagadougou Action Plan (OAP) was held in Abuja, Nigeria, in March 2010. Among the recommendations emanating from the workshop were that: Regional Economic Communities (RECs) establish anti-trafficking focal points to be responsible for the implementation of the OAP within the region; RECs develop action plans for their respective sub-regions to be supported by established institutional frameworks to oversee the implementation as well as monitoring and evaluation; RECs develop bi-annual reports on the implementation and follow-up on the OAP; the African Union Commission

¹⁴ Adopted on March 27 2009, may be found at:

<http://www.oas.org/csh/english/fightingtraffickinginpersons.asp#II>

¹⁵ See AG/RES. 2019 (XXXIV-O/04) , Fighting The Crime Of Trafficking In Persons, Especially Women, Adolescents, And Children, (Adopted at the fourth plenary session held on June 8, 2004) See resolution at: http://www.oas.org/xxxivga/english/docs_approved/agres2019_04.asp

¹⁶ Draft Work Plan to Combat Trafficking in Persons in the Western Hemisphere 2010-2012 (Adopted at the meeting held on April 29, 2010) CP/CSH-1155/09 rev. 10: See workplan at : http://scm.oas.org/doc_public/ENGLISH/HIST_10/CP24648E07.doc

¹⁷EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005) See Plan at:

[http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1209\(01\):EN:NOT](http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1209(01):EN:NOT)

(AUC) prepare an analytical continental report on the state of trafficking in Africa on a biennial basis; a reporting mechanism be established on the implementation of the OAP; the AUC develop, in consultation with RECs and Member States, a tool for monitoring & evaluation on the implementation of the OAP, logical framework and guidelines for national and regional plans of action; and a mechanism be developed for information and data sharing between Member States, RECs, the AU, UN agencies, civil society and other partners and stakeholders.

3.3. Monitoring bodies

An effective monitoring component is critical to the implementation of both normative human rights standards and of an effective anti-trafficking strategy, including work plans. In this regard, SAARC established in 2006 a Regional Task Force, which meets yearly to monitor and assess the implementation of the SAARC Convention.

In 2003 the OSCE, by its Ministerial Decision, established a Special Representative and Coordinator for Combating Trafficking in Persons. Its mandate includes: holding a high-level dialogue with participating States in the implementation of OSCE commitments; coordinating OSCE anti-trafficking efforts; conducting evidence-based research, and providing assessments of achievements of participating States and the OSCE in this area.

The **Association of Southeast Asian Nations (ASEAN)** Working Group on Trafficking In Persons has as its main objective to monitor the implementation of the Work Plan to Implement the ASEAN Declaration on Trafficking in Persons, especially Women and Children¹⁸, while the **LAS** has held a workshop to discuss a mechanism to combat human trafficking in Arab legislation.¹⁹

The **CoE** Convention on Action against Trafficking in Human Beings has established a monitoring mechanism based on two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA), composed of independent experts, and a Committee of the Parties, a political body. GRETA, whose members are elected by the Committee of the Parties and act in their own capacity, is responsible for monitoring the implementation of the CoE Convention by the parties. It has recently initiated the first round of evaluation of the implementation of the Convention by the parties (2010-2013). Its reports and conclusions, which are due to be made public, will contain an analysis of the implementation of the Convention by the party concerned and suggestions and proposals on how this party may deal with the problems identified. The Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to the party concerned on measures to be taken to implement GRETA conclusions. This appears to be a potentially effective arrangement with a promising outlook for comprehensive and accountable implementation of standards. As with all existing and emerging regional monitoring bodies, the Special Rapporteur intends to follow GRETA's experience closely with a view to identifying any emerging good practices and lessons learned.

¹⁸ See Declaration at <http://www.aseansec.org/16793.htm>

¹⁹ Workshop Report submitted, may be requested from LAS Secretariat

The formats, structures and procedures for monitoring regional efforts to combat trafficking vary widely between different regional mechanisms. It is possible, meanwhile, to identify certain features that appear to be key to their effectiveness, including: regular meetings to review the degree of implementation of normative instruments and related work plans; at least part of the structure being made up of independent experts; and the ability to make recommendations to the mechanism's governing structure.

Suggested Discussion Points:

- What are the lessons learned concerning the implementation of legally binding standards developed at the regional level – through legal instruments; through work plans; through monitoring mechanisms?
- What early lessons may be drawn from the establishment of regional monitoring mechanisms and their features?
- To what extent is it possible to assess the impact/effects of regional and sub-regional action plans, and what methods have proven effective in conducting such assessments and incorporating resulting lessons learned?

4. Prevention

While there is a large number of regional instruments and initiatives focusing on prevention, and while some recent targeted initiatives are highly encouraging, there is scope for further development and/ or refinement, particularly in the following areas: addressing root causes; increasing opportunities for safe migration; and initiatives to raise awareness at all levels regarding trafficking in persons.

4.1. Addressing root causes

The Special Rapporteur considers that regional mechanisms are well placed to provide support in addressing root causes, and is encouraged by statements such as that made by the **LAS** at the Vienna Forum held by UNODC on 13-15 October 2008, reaffirming “the importance of according priority to combating human trafficking in order to deal with the root causes of the phenomenon including armed conflict, occupation, poverty, ignorance, inequality in development, the North-South divide and lack of technical cooperation with, and development of support for, the countries of the South.”²⁰

In October 2009, the **EU** also adopted a Ministerial Declaration, ‘Towards Global EU Action against Trafficking in Human Beings’²¹, advocating a ‘root-cause-centered’ approach to prevention. Ministers pledged to “address the root causes which make individuals vulnerable to taking risks and potentially falling victims of trafficking in human beings” and identified “poverty, lack of opportunities, and of access to education, social and gender inequalities, unemployment, and civil conflicts”²² as the main factors requiring address. Such developments notwithstanding, there appears to be a general lack of concrete initiatives to address the root causes of trafficking in persons at the regional level.

²⁰ submitted, may be requested from LAS Secretariat

²¹ Declaration made at the EU Ministerial Conference: Towards Global EU Action against Trafficking in Human Beings, Brussels, October 19-20, 2009

²² *ibid*

4.2. Increasing opportunities for safe migration

The Special Rapporteur has also urged regional mechanisms to contribute to increasing opportunities for safe migration within regions and sub-regions through, for example, developing regional guidelines on good practices on the recruitment of migrant workers and promoting bilateral cooperation between sending and receiving countries in monitoring the recruitment and working conditions of migrant workers.

It is encouraging, in this regard, to note the existence of innovative structures of cooperation such as the Inter-African Conference on Social Security, in addition to regional and sub-regional agreements such as the series of **Economic Community Of West African States (ECOWAS)** instruments²³ collectively aimed at the removal, between member states, of obstacles to the free movement of persons, goods, services and capital and to the right of residence and establishment.

The **EU** has recently launched initiatives in this area at both the political and programmatic level. At the political level, EU Ministers explicitly recognized in the above-mentioned Ministerial Declaration²⁴ the need for more comprehensive mainstreaming of human rights in anti-trafficking efforts, including through policies and measures dealing with immigration, integration of migrants and labour protection. The declaration states, inter alia, that “[t]he promotion of regular, fair and managed migration policies based on demand has the potential to reduce [trafficking in persons] by offering immigration possibilities which are safer, guarantee socio-economic and human rights and support the integration of the migrants into the destination society ... [trafficking in persons] can also be contained through the protection of migrants’ and labour rights.”²⁵ At the programmatic level, one of the principles of an assessment manual for measuring responses to trafficking in persons developed for use in the EU is to “make government policies linked to migration, the economy and the informalisation of the workplace consistent with efforts to stop trafficking”²⁶.

COMMIT-Mekong has held a two-day regional seminar to explore further the linkages between trafficking and labour migration, with a focus on bilateral MOUs promoting safe migration as an effective measure to prevent human trafficking. After the seminar, two follow-up bilateral meetings were held to continue the work on how this topic should be organized. **COMMIT-Mekong** also has several projects in this area. They include a project to collect information on job, marriage and adoption brokers and agencies that the governments reasonably believe are involved in trafficking in persons.

²³ Treaty of the Economic Community of West African States (1975) and its 1993 revision; Protocol relating to the free movement of persons and goods, the right of residence and establishment; and the Treaty establishing the West African Economic and Monetary Union.

²⁴ See section 4.1, page 9

²⁵ Declaration made at the EU Ministerial Conference: Towards Global EU Action against Trafficking in Human Beings, Brussels, October 19-20, 2009

²⁶ Dottridge, M. on behalf of the European Commission, *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual*, Brussels, 2007

4.3. Awareness-raising

The Special Rapporteur considers that regional organizations are also in an ideal position to coordinate and support initiatives to raise awareness at all levels regarding trafficking in persons within regions and sub-regions. In this regard, she has recommended that regional mechanisms: provide technical and financial support to countries for raising public awareness at all levels regarding trafficking in persons; themselves develop and implement public awareness campaigns, in partnership with international organizations, civil society and the media; and promote the inclusion of human trafficking information into school curricula at all levels of education.

COMMIT-Mekong, for instance, has developed, field-tested and distributed information intended for those potentially vulnerable to trafficking. It is also mobilising resources to develop labour information packets, a hotline service and radio programmes in appropriate minority languages to raise awareness among persons vulnerable to trafficking.

At the level of the **African Union**, the AU.COMMIT Campaign aims at curbing both the supply and demand for human trafficking, in partnership with several United Nations agencies. The Campaign included the production of television advertisements, the distribution of 1,000 copies of the Ouagadougou Action Plan, of 1,000 T-shirts with the slogan “AU.COMMIT: Stop Trafficking” and of 1,000 copies of pamphlets, pins, posters, etc. In line with the three main strategies of the Ouagadougou Plan of Action, the AU.COMMIT Campaign will be implemented in three phases, focusing in 2009-2010 on prevention of, and response to, trafficking, in 2010-2011 on protection of victims and in 2011-2012 on prosecution of traffickers.

Suggested Discussion Points:

- What could be the role of regional mechanisms to promote the use of evidence-based methodologies, such as the replication of good practices or targeted research, in the design and implementation of interventions to prevent trafficking, including tackling root causes and factors increasing vulnerabilities to trafficking?
- To what extent, and in what ways, may regional mechanisms promote safer migration avenues as a trafficking prevention measure?
- What impact have regional mechanisms achieved through initiatives to raise awareness of risks associated with trafficking? What are the lessons learned in ensuring the effectiveness of awareness-raising activities?

5. Protection, recovery and reintegration of trafficked persons

In addition to developing minimum standards at the regional level on protection, support and services for trafficked persons, an important complementary function of regional mechanisms in this area could be taking concrete steps to incorporate lessons learned from any evidence-based initiatives proven to be effective. One encouraging and promising indication is the wealth of practical tools developed at the regional level that could potentially enhance significantly the promotion and protection of the rights of

trafficked persons to adequate protection, possibly not only within but also across regions. A compilation of tools developed at the regional level may be found in Annex III²⁷.

The **CoE** Convention, notably, sets out a wide range of assistance measures to be provided to trafficked persons, including physical and psychological assistance and support for their reintegration into society. Medical treatment, counseling and information as well as appropriate accommodation are all among the measures to be provided. It also establishes a recovery and reflection period of at least 30 days for victims to recover and escape from the influence of the traffickers and to take a decision on their possible cooperation with law enforcement authorities. Victims may be granted a renewable residence permit either on humanitarian grounds and/ or on the basis of victims' cooperation with law enforcement authorities.

Interesting to note is also the work of **COMMIT-Mekong**, which bases its approach to protection on a practical assessment of what can realistically be provided to trafficked persons within the region.

The **OAS** Secretariat conducted training in Quito, Ecuador, in December 2009, for governmental officers of the ministries involved in combating trafficking in persons. As an end result of this training, the participating Ecuadoran institutions agreed on a protocol for victims' assistance, identifying the responsibilities of each institution.

Suggested Discussion Points:

- What could be the role and added value of regional organizations in promoting comprehensive protection for trafficked persons in line with international human rights standards?
- What are the main challenges, gaps, and/ or obstacles to ensuring such comprehensive protection to all trafficked persons?
- What measures could be taken to promote and/ or consolidate the elaboration and promotion of tools designed to increase the protection of trafficked persons? Could any of these tools usefully be applied across regions and contexts, and if so how?
- What role can regional mechanisms play in strengthening practical cooperation for protection, notably with and among providers of support and services to trafficked persons?

6. Protection of specific groups, including gender-sensitive perspectives and child-centered approaches

Regional mechanisms have a key role to play in promoting the elimination of gender-based misconceptions that prevent authorities from providing appropriate and equal protection and assistance to all trafficked persons, whether women, men, girls or boys, whilst paying due attention to the special protection measures to which children are entitled under international law.

²⁷ An updated compilation of regional tools may be found at http://www2.ohchr.org/english/issues/trafficking/Dakar_consultation_oct2010.htm

Such gender misconceptions often lead authorities not to consider men as possible victims of trafficking. As a consequence, men as victims of trafficking tend to be discriminated against in access to protection and assistance. This is reflected in the fact that a number of regional cooperation initiatives only cover trafficking in women and children, while trafficking in men and boys is not addressed. Gender biases may also lead to measures that consider women and girls as persons to be protected in a manner that reduces their agency of change, such as legislation prohibiting them from migrating without permission from parents or other legal guardians.

The **AU's** Ouagadougou Action Plan recognizes that the empowerment of women and girls through national policies is an important part of combating trafficking, and that a gender perspective should be applied when adopting and implementing measures to prevent and combat trafficking in persons. In this regard, it calls upon States to promote the empowerment of girls and women in their national policies, and to take measures to eliminate harmful customs and traditional practices and to counter cultural stereotypes, which can lead to trafficking in persons. Moreover, it invites them to provide viable employment or other livelihood opportunities for youth, particularly for young women at risk, especially in regions prone to trafficking.

The **OAS** has also attained significant achievements in this area. Apart from having adopted the Inter-American Convention on International Traffic in Minors, the organization's secretariat promotes the inclusion of a gender perspective in all aspects of its work, and encourages OAS member States to send an equal number of male and female participants to all training provided or supported by OAS. It has also developed a toolkit including several gender and human rights components (see Annex III).

The **CoE** Convention, in addition to requiring the use of gender mainstreaming in the development, implementation and assessment of anti-trafficking measures, also contains special measures for children. These include measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them. It also includes measures on the identification and representation of child victims, on the protection of the private life and identity of child victims, on the issue of residence permits for child victims in accordance with the best interests of the child, and on non-return of child victims to a State if there is any indication that return would not be in the best interests of the child. Furthermore, the Convention states that repatriation programmes for child victims should include enjoyment of the right to education and measures to secure adequate care or reception by the family or appropriate care arrangements.

A highly encouraging approach to the protection of children in relation to trafficking is the one advocated by the **OSCE** Special Representative in her 2009 annual report. She posits the process of a 'best-interest-of-the-child' determination as a central tool in ensuring that all aspects of the child's situation are considered, insisting that this process must especially be made a prerequisite before a child is returned or repatriated. The **OSCE** has also published the 'OSCE Guide on Gender-Sensitive Labour Migration Policies', and, in collaboration with IOM and ILO, the 'Handbook on Establishing

Effective Labour Migration Policies in Countries of Origin and Destination’, stressing the role of women in the process of migration as well as the feminization of migration.

It is also encouraging to note the commitment of **COMMIT-Mekong** members to take children’s views into account in developing anti-trafficking measures, as expressed during their consultation with the Mekong Children’s Forum on Human Trafficking and the Mekong Youth Forum in 2007 and 2008 respectively. COMMIT-Mekong has also supported existing child- and youth-led prevention activities in communities and established a technical working group to identify minimum standards for child-focused repatriation. This working group has the objective of establishing mutually accepted procedures for repatriation of child victims of human trafficking in line with the standards set out by the COMMIT MOU, and the international instruments referenced in that MOU.

The **European Commission** strives to take a child protection and gender perspective into account when formulating its policies and funding programmes. One concrete example of a child protection-focused measure is the Action Plan on Unaccompanied Minors arriving on the European Union territory, which is foreseen for adoption in 2010.

As regards boys and men, **COMMIT-Mekong** has taken relevant steps to include these in COMMIT national plans, anti-trafficking laws and MOUs that previously focused solely on women and children, thereby reinforcing certain myths and stereotypes about the issue. COMMIT has encouraged member States who are parties to the Palermo Protocol to adopt its definition, which covers trafficking of all persons, including men, and in all its forms, including trafficking for labour exploitation. Furthermore, COMMIT acknowledges the differential risks to exploitation in division of labour by gender and addresses gender-based vulnerabilities to trafficking in persons.

Suggested Discussion Points:

- What contribution can regional mechanisms make to ensuring that protection and assistance is provided equally to all trafficked persons, regardless of gender but with due regard to the need for special protection measures for children?
- What role can regional mechanisms play in ensuring that trafficked women are not stigmatized through awareness-raising activities or measures to promote safe migration?
- What is the experience of regional mechanisms in ensuring that the views of trafficked persons, including children, are taken into account in anti-trafficking policies and programmes? What are the challenges and obstacles in this regard?

7. Enhanced cooperation and partnerships

Regional organizations have an important role to play in promoting effective partnerships, not least between governments and civil society and between themselves and civil society. Building such partnerships, including with key private sector stakeholders, remains a challenge. The Special Rapporteur has also urged regional mechanisms to promote, in particular, bilateral cooperation between countries, between regional organizations and countries and between different regional organizations aimed at adopting measures to

reduce vulnerabilities in source areas. Another important dimension is cooperation between regional mechanisms and the United Nations, notably the UN human rights system, which was recognized at a workshop on “Enhancing cooperation between international and regional human rights mechanisms”,²⁸ organized by OHCHR in Geneva on 3-4 May, 2010.

In this regard, she is encouraged that the **ASEAN** Working Group on Trafficking in Persons has among its main objectives to facilitate the exchange of information and experiences on trafficking among ASEAN member states. More specific objectives include: considering ways and means to strengthen regional and international cooperation to prevent and combat trafficking; and facilitating donor coordination and cooperation on trafficking-related projects within the ASEAN region. ASEAN has also facilitated the conclusion of bilateral meetings to combat trafficking between countries, in particular between Thailand and the Lao People’s Democratic Republic and between Cambodia and Viet Nam. One of the key objectives of the **Bali Process** is to develop and strengthen practical cooperation between regional operational agencies that work in areas such as law enforcement and border control based on the assumption that it is these agencies that are ultimately at the frontline of the fight against human trafficking.

COMMIT-Mekong has conducted a regional seminar to elaborate an agreement on standardized operating procedures in sharing of information and intelligence. It has also held seminars on: (a) mechanisms and systems for exchange of information and data collection; (b) sharing experiences on the establishment and implementation of bilateral/multilateral agreements on combating trafficking; and (c) sharing knowledge, experiences and skills on multi-sectoral cooperation between the criminal justice sector and other government departments and NGOs supporting victims of trafficking.

At the level of the **AU**, the implementation of the Ouagadougou Action Plan foresees the involvement of a range of actors, including regional economic communities, the Pan African Parliament (PAP) and the European Parliament (EP), civil society actors, migrant associations, and research institutions. Among the activities foreseen in the Plan is that to “enhance bilateral and multilateral cooperation and coordination between European and African countries of origin, transit and destination, and establish trans-national referral mechanisms among them.”²⁹

The Alliance against Trafficking in Persons was established by the first **OSCE** Special Representative in 2004, on the basis of thorough consultations with OSCE participating States and bringing together major international and regional organizations working on trafficking in an informal forum for the exchange of information and sharing of experience and best practices. The Special Representative also hosts annual high-level Alliance events as well as bi-annual meetings of a smaller group of experts – the Alliance

²⁸ A/HRC/15/56/Corr.1 Report of the Office of the United Nations High Commissioner for Human Rights on the international workshop on enhancing cooperation between international and regional mechanisms for the promotion and protection of human rights

²⁹ Available from African Union website: www.africa-union.org

Expert Coordination Team – at the operational level to share best practices and avoid duplication.

The Committee of the Parties of the **Council of Europe** Convention on Action against Trafficking in Human Beings organized in Strasbourg on 13 September 2010 a thematic debate on ‘Partnerships among international organizations active in the field of trafficking in human beings: need for coordinated action’. The aim of the debate was to determine the actions to be taken to strengthen partnerships and improve coordination between the different international organizations active in the field of preventing and combating trafficking in human beings and protecting its victims.

Another possible approach is the development by regional organizations of bilateral relations with third countries or organizations. An interesting initiative in this regard is set out in the **EU Action Oriented Paper on Strengthening the EU External dimension on Action against Trafficking in Human Beings**³⁰. It provides that where human trafficking is of particular mutual concern between the EU and key third countries or regions, the parties could set up specific Anti-Trafficking in Human Beings Partnerships or specific agreements. These partnerships should be based on an assessment of needs, inter alia from the perspective of a victim-centred and human rights-based approach, and on opportunities for practical operational cooperation. This is an innovative type of bilateral agreement that would allow for a partnership between a regional organization and a country that is not a member, and also between sub-regional mechanisms, on a case-by-case basis depending on needs. Similarly, the Action Oriented Paper provides that, in response to a new trend or pattern, for instance a noticeable increase in the number of victims of trafficking from a similar area or region route, it may be deemed necessary to develop a joint effort in partnership with a third country, region or organization.

Other notable approaches include the development of bilateral relations between regional mechanisms. A good example in this regard is the decision taken by **ECOWAS and the Economic Community for Central African States (ECCAS)** in 2006 to adopt a joint resolution, multilateral cooperation agreement and a regional plan of action in order to combine their efforts in this area.

Similarly, the **African Union Commission and the European Commission** have jointly launched a project called ‘Support for the Africa-EU Partnership on Migration, Mobility and Employment’ (MME) that aims to provide an open framework for consultations on a flexible thematic and geographic basis, strengthening the leadership of the key stakeholders and facilitating the exchange of information and good practices. The project is implemented by the International Centre for Migration Policy Development (ICMPD), the International and Ibero-American Foundation for Administration and Public Policies (FIIAPP) and the African Institute for Economic Development and Planning (IDEP). The project aims to stimulate best practices and information sharing through the creation of a so-called MME network’ of national experts, researchers and civil society actors. It is foreseen that this network will be involved in stocktaking of outcomes and best

³⁰ See Paper at: <http://register.consilium.europa.eu/pdf/en/09/st11/st11450-re05.en09.pdf>

practices from projects and initiatives from across the African continent, expert workshops, commissioned research and an email newsletter.

Suggested Discussion Points:

- Which are the main stakeholders involved in the different aspects of anti-trafficking work, and how can regional mechanisms most effectively cooperate with each of these?
- What lessons in terms of concrete impact and results may be drawn from regional mechanisms' initiatives to promote effective cooperation among all relevant stakeholders?

Annex I: Extract from SR 2010 HRC Report: Conclusions and Recommendations
Section

IV. Conclusions and recommendations

Based on her analysis, the Special Rapporteur puts forward the recommendations set out in the following paragraphs.

106 Whenever possible, regional or sub-regional cooperation mechanisms should be established to promote a coordinated approach to combat human trafficking within a region where complementarities and synergies for joint work exist.

107 Regional mechanisms should develop standards that reflect a human rights-based approach to trafficking, based on relevant international instruments such as the Palermo Protocol and the OHCHR Guidelines. These standards should be developed in regional legal instruments, regional and national action plans, bilateral agreements, and further set out in practical guidelines, standard operating procedures or practitioners' handbooks. Furthermore, regional mechanisms should provide assistance to countries in operationalizing these standards at the national level through capacity-building activities, most importantly training and workshops. Finally, they should be active in monitoring and evaluation, collecting data on achievements and challenges, and sharing the results of their evaluation, including good practices, with countries in their region.

108 Regional cooperation instruments and plans of action should promote the ratification of international human rights law instruments, including the Palermo Protocol. In particular, they should contain a commitment by all countries to adopt the Palermo Protocol definition of human trafficking, which covers trafficking of all persons, women, children and men, and in all its forms, including for sexual exploitation, labour exploitation, slavery or practices similar to slavery, organ transplantation and other exploitative reasons.

(a) With regard to the regional mechanisms' institutional frameworks, these should include:

109. A sustained high-level commitment from relevant ministries or establishments that focus on human trafficking.

110. A solid foundation to build from, such as a Convention, an MOU or a Declaration, followed by a comprehensive regional workplan.

111. The establishment of a regional monitoring body to meet regularly to review the degree of implementation of normative instruments and workplans and provide recommendations to countries.

(b) Regional mechanisms should carry out the activities set out in the following paragraphs, which have a specific added value:

112 Assist in the development of NPAs.

113. Assist in the establishment of a national coordination body or a national task force with implementation, coordination and oversight responsibility, consisting of representatives from the relevant ministries — including police, justice, social welfare, labour and women's affairs — to be responsible for evaluating achievements and challenges in the country's implementation of NPAs, managing data collection and information sharing, taking decisions with regard to the need to revise strategies and coordinating efforts at the national level.

114. Assist in the establishment of anti-trafficking units and special national focal points within national law enforcement structures, and promote the creation of direct channels of communication between special units and focal points in different countries, as well as joint-trained border patrols.

115. Facilitate the establishment of a strong regional network of counter-trafficking practitioners that will favour cross-border cooperation in various areas, through the organization of regular regional training and workshops.

116. Assist in the development and strengthening of bilateral cooperation mechanisms between countries of the same region.

117. Assist in the creation of partnerships between Governments on one hand and international organizations and civil society organizations on the other. All partners should work on the basis of one workplan, where each has clearly assigned responsibilities.

118. Establish or improve mechanisms for data collection and information exchange.

119. Conduct regular regional training courses, assist in developing and improving curricula for national level training, collect and compile information on existing training programmes at the regional and national level, and conduct regular training needs assessments.

120. Promote the provision of gender-sensitive responses which adequately address the needs of both women and men as victims.

121. Promote the participation of both women and men in decision-making concerning counter-trafficking policies, at every level and notably in positions of leadership.

122. Conduct studies and develop recommendations on how to address the challenges posed by the increasing use of communications technologies such as the Internet to channel demand and recruit victims.

123. Establish contacts and possibly a partnership with the tourism sector and develop a regional strategy in order to raise awareness within that sector on trafficking for sexual tourism.

(c) With regard to prevention, regional mechanisms should take the actions set out in the following paragraphs:

124. Provide technical and financial support to countries for raising public awareness at all levels regarding human trafficking. Regional mechanisms should themselves develop and implement public awareness campaigns, in partnership with international organizations, civil society and the media.

125. Promote the inclusion of human trafficking information into school curricula at all levels of education.

126. Develop regional guidelines on good practices on the recruitment of migrant workers, and promote bilateral cooperation between sending and receiving countries in monitoring the recruitment and working conditions of migrant workers.

127. Promote bilateral cooperation between countries and between regional organizations and countries aimed at adopting measures to reduce vulnerabilities in source areas.

(d) With regard to protection, recovery and reintegration, regional mechanisms should take the actions set out in the following paragraphs:

128. Develop minimum standards at the regional level on support and services to be provided to victims of trafficking in order to enhance the level of protection, assistance and recovery. Special attention should be given to victim identification, repatriation, access to shelter, medical and psychosocial assistance, and rehabilitation, in line with the standards set out in international instruments and guidelines.

129. Develop and promote the adoption by Governments of regional practitioners' guidelines on protection, including victim identification, repatriation, access to shelter and medical and psychosocial assistance, and rehabilitation, and provide assistance in their operationalization at the national level, through training and workshops at the regional and national levels.

(e) The role of regional organizations is also to promote an effective prosecutorial and judicial response, with a victim-centred approach. To that effect, regional organizations should:

130. Promote the establishment of national legal frameworks to criminalize trafficking, putting the protection of victims (and witnesses) and their access to effective legal remedies and compensation at the centre of the prosecutorial and judicial response.

131. Promote the creation and strengthening of specialist anti-trafficking units in prosecution offices, and promote cross-border and internal cooperation between these units.

132. Provide specialized training to law enforcement officials (particularly police, prosecutors and judges).

133. Establish case monitoring and analysis systems to identify lessons learned and address barriers to effective responses to human trafficking. On that basis, develop handbooks or guidelines that include standard operating procedures on how to investigate and prosecute trafficking cases.

134. Promote the adoption of extradition and mutual legal assistance agreements that incorporate trafficking-related crimes.

(f) On the right of victims to redress and compensation, regional mechanisms should ensure that at the national level:

135. Mechanisms are in place that allow victims to safely exercise their right to access legal remedies.

136. Victims who act as witnesses are fully supported and protected.

137. Mechanisms to provide compensation to victims are established and made operational, based for example on the confiscation of perpetrators' assets or on any other suitable mechanism.

(g) The international community should explore ways to financially support regional mechanisms in their effort to provide assistance to countries in developing their human rights-based anti-trafficking strategies. National governments should for their part ensure adequate budgetary allocation for implementation of their national plans on anti-trafficking derived from regional mechanisms and cooperation initiatives.

Annex II: List of Abbreviations

AU	– African Union
ASEAN	– Association of Southeast Asian Nations
CoE	– Council of Europe
COMMIT-Mekong	– Coordinated Mekong Ministerial Initiative Against Trafficking
EC	– European Commission
ECCAS	– Economic Community for Central African States
ECOWAS	– Economic Community of West African States
EU	– European Union
LAS	– League of Arab States
MERCOSUR	– Mercado Comun del Sur
OAS	– Organization of American States
OIC	– Organization of the Islamic Conference
OSCE	– Organization for Security and Cooperation in Europe
RECs	– Regional Economic Communities
SAARC	– South Asian Association for Regional Cooperation
SADC	– Southern African Development Community