



Ending Impunity, Securing Justice and Preventing Exploitation

Paper by Anne T. Gallagher, Australia

Trafficking in Human Beings: Modern Slavery

Workshop 2-3 November 2013

Pontifical Academies of Sciences, Pontifical Academy of Social Sciences, and World Federation of the Catholic Medical Associations

Open your mouth, judge righteously, defend the rights of the poor and needy.

Proverbs 31:9

*You may choose to look the other way
but you can never say again that you did not know.*

William Wilberforce (1791)

Introduction

Human trafficking is the subject of complex legal definitions, but the essence of this crime is very simple: trafficking is about moving someone into – or keeping them in – a situation of exploitation from which they cannot escape. Its end purposes are as varied as the potential for profit. People are trafficked for exploitative labour in factories, on farms, and on fishing boats; for forced prostitution; for involuntary marriage; even for the removal of their organs. Sometimes trafficking involves locks, chains and fences. However traffickers understand that individuals can be very effectively controlled in much more subtle ways: through a debt that just keeps growing, for example, or by promises of future payment that never materialize. Sometimes threatening to turn an undocumented migrant over to the authorities, or to harm a victim's family, can be sufficient to establish and maintain complete control.

While trafficking has been around for a very long time, international and national responses are much more recent. It was as a UN human rights official in the late 1980s that I first heard reports about what soon became recognized as the classic stereotype of victims of trafficking: young girls being lured into sexual servitude in Southeast Asia. Around the same time, the demographic and social changes that accompanied the collapse of communism in Eastern Europe were creating a vast pool of potential victims. The trickle of reports of human exploitation quickly turned into a flood. States became increasingly concerned, not just because of the inevitable human rights violations but also because of the involvement of organized crime and the threat to their borders. In 1998, the international community came together under the auspices of the UN to agree on a new legal framework around transnational organized crime. One of a package of treaties that emerged from this process dealt specifically with "trafficking in persons."

The UN Trafficking Protocol is now the central international legal instrument in this area. It requires all States parties (currently 156) to criminalize trafficking in their national laws, take steps to prevent future trafficking, and provide basic assistance and protection to victims. States parties are also required to cooperate with each other in each of these areas. In the 13 years that have elapsed since its adoption, the Protocol has exercised decisive influence over national responses to this crime. The overwhelming majority of countries have amended their laws or introduced a special new law to criminalize trafficking and related offences; many have gone much further and have provided specific measures of protection and support for victims, ranging from special visas to witness protection.

Unfortunately, the challenges of dealing with trafficking and related exploitation have become increasingly evident over the past decade as new laws, stronger political commitments, increased funding, heightened scrutiny, and reformed institutions fail to produce significant change. In all parts of the world, women, men and children continue to be exploited with virtual impunity. Too few exploiters are being prosecuted and too few victims are being identified and protected. New or previously hidden forms of exploitation are regularly uncovered. An honest acknowledgement of these developments - along with a careful examination of their underlying causes – is an essential first step in promoting real and lasting change. In setting out some of the

key challenges – and pointing to emerging opportunities, this paper seeks to provoke discussion around where political support and advocacy efforts, including by the Vatican, could best be directed.

1. The challenge of impunity

Responses to trafficking initially focused on preventing movement among vulnerable groups and supporting victims. However, I am among a growing number of practitioners who have come to understand that an effective criminal justice response to trafficking is an essential component of any national anti-trafficking strategy. In other words, it's just not good enough to treat trafficking-related exploitation as some kind of social welfare issue. Trafficking is, first and foremost, a crime that deserves to be treated with the seriousness that is accorded other offenses such as rape, false imprisonment, and servitude. Unfortunately, this happens all too rarely. In just about every country, including my own, traffickers are very rarely investigated, prosecuted, and punished. The most recent Trafficking in Persons Report indicates that, worldwide, 7,705 trafficking prosecutions took place in 2012, with only 4,746 convictions.¹ While we now know that labour exploitation is the main end purpose of trafficking, the bulk of prosecutions continue to be for sexual exploitation. During 2012, there were only 1,153 prosecutions for trafficking-related labour exploitation worldwide, and only 518 convictions. It is safe to say that very few of these prosecutions have targeted the major players: those who are reaping the greatest financial rewards for trafficking-related exploitation.

What can be done to change this situation? Over the past decade, with help from criminal justice colleagues in many countries, I have begun to flesh out the key elements of an effective criminal justice response to trafficking.² This “model,” which is firmly based on international criminal justice and human rights standards, continues to be tested, revised, and refined. Its focus is very much on addressing the problems that have so far obstructed investigations and prosecutions. For example, the model recognizes that the foundation for an effective response must be a solid law that criminalizes both trafficking and the full range of associated offenses. Criminal justice agencies need options, and sometimes it is easier and quicker to prosecute someone for debt bondage or child labour than for trafficking. The legal framework must also enable the rest of the system. This means ensuring that investigators can do their job properly, that victims can access remedies, and that evidence can be exchanged across borders.

The model acknowledges that the law enforcement component of an effective response needs to include both specialist investigators and well-informed, front-line officials. Most countries now have a specialist trafficking unit within their national police forces that is charged with either conducting or advising on trafficking investigations undertaken within the country. Strong units have a clear mandate and adequate resources to do their job properly. They understand the psychology of victims and how to establish their credibility as witnesses. They appreciate the value of proactively securing evidence that corroborates the account of victim-witness. They work closely with front-line officials—police, immigration, and labour inspectors—who have responsibility for identifying victims of trafficking in the first place and for delivering an effective first response. They collaborate with victim support agencies in ensuring that potential witnesses are protected and supported. They also work closely with prosecutors, who are another important link in the chain, throughout the investigative and trial phases.

While specialization within law enforcement has advanced considerably, the same has not yet happened at the prosecutorial level. Experience in the field is teaching us that, where the caseload warrants, well-trained and well-resourced specialist prosecutors who either lead or advise on all trafficking-related prosecutions, are an essential component of an effective criminal justice response. Judges must also be brought into the picture. A judge who is knowledgeable about the crime of trafficking and who is committed to upholding the law has a vital role to play in securing safe convictions that fully respect international fair trial guarantees.

While trafficking can take place entirely within the borders of a single country, it is more often a transnational crime. Without cooperation between national criminal justice agencies, it is probable that a prosecution will not touch all those involved in the exploitation, that victims still in exploitation will remain there, and that the “big fish” will continue to cooperate successfully.

Unfortunately, the ability of most countries to engage in genuine operational and legal cooperation on trafficking remains very low. Bilateral cooperation agreements, the establishment of joint investigation teams, and updated mutual legal assistance and extradition arrangements are just some of the ways in which international cooperation capacity can be strengthened but this will be a long and hard road.

Of course, the pursuit of traffickers should never be at the expense of international rules governing the administration of justice. These rules, enshrined in international treaties voluntarily accepted by the vast majority of states, guarantee, to all persons, the right to receive a fair and public hearing by a competent, independent, and impartial tribunal established by law. Procedural guarantees for a fair trial are well known

and accepted, at least in principle, by all countries and must be applied in all trafficking cases. States that fail to observe these standards risk compromising the integrity and reputation of their national criminal justice systems. Such failures can also lead to an erosion of community support for the investigation and prosecution of traffickers.

2. The challenge of securing justice for victims

It is often argued that an over-emphasis on prosecutions is detrimental to victims and their rights. However it is this author's experience that such a view is shortsighted: surely a criminal justice response that seeks to both end impunity for traffickers and secure justice for victims must be considered an essential part of any credible response to trafficking.

What does it mean to secure justice for victims? The following points, which are all reflected in the model for an effective criminal justice response to trafficking referred to above,³ are critical:

Identification: In many countries, victims of trafficking are never identified and, as a result, are simply invisible and unable to access the rights to which they are entitled. Universally low rates of victim identification can be explained, at least in part, by the covert nature of much trafficking activity, the high levels of trauma and intimidation with which it is generally associated, distrust of law enforcement, and a lack of awareness among many individuals who have been trafficked as to their legal rights and their status as victims.⁴ International law requires States to ensure that the procedures and mechanisms necessary for quick and accurate identification are in place and effectively implemented.

Immediate protection and support: victims who break free from their exploiters often find themselves in a situation of great insecurity and vulnerability. They may be physically injured as well as physically and/or emotionally traumatized. They may be afraid – and in danger - of retaliation. They are likely to have few, if any, means of subsistence. International law imposes obligations on States with regard to protection of victims from further harm as well as the provision of immediate assistance and support, including medical, psychological and social assistance. All victims of trafficking have a right to information and legal advice on the options that are available to them, including their rights and options as witnesses. In their dealings with trafficked persons, States are required to ensure they are treated with humanity and with respect for their dignity and human rights. This means that victims should not be detained against their will (including in a shelter) or criminalized for offences related to their trafficking - such as illegal entry or illegal work.

Special protection for victim witnesses: an effective criminal justice response to trafficking relies heavily on the cooperation of victims. In fact, investigations and prosecutions are usually difficult and sometimes impossible without the cooperation and testimony of victims. However trafficked persons often have very little reason to cooperate with investigators and prosecutors: their experiences may have made them distrustful of officials and they may fear retaliation from their exploiters. Many just wish to be able to find a decent job or return home. National authorities should be working toward a situation whereby victims of trafficking are recognized as an essential resource and are provided with the protections and incentives they require to participate safely and effectively in the prosecution of their exploiters.

Remedies: Victims of trafficking have often been exploited for little or no payment over long periods of time. They may have suffered injuries or contracted illnesses that require medical attention. They may have incurred debts as a result of their trafficking experiences. International law – and many national laws - clearly recognizes that trafficked persons have the rights of access to remedies for the harms committed against them. Unfortunately, this right is very rarely recognized in practice. However, the situation is changing, at least in some countries where there have been a number of recent successes in securing compensation and other forms of remedy for trafficking-related exploitation. Improvements in victim identification, the provision of immediate protection and support, and access to legal information and assistance will all be important in ensuring victim access to remedies.

3. The challenge of ensuring protection and support for child victims⁵

The trafficking of children is a widespread criminal phenomenon affecting all regions and most countries. Children are trafficked for the purpose of sexual exploitation including prostitution and the production of pornography. They are trafficked for forced and exploitative labour on farms, in factories, on fishing boats, for forced begging and for domestic servitude in private homes. While children are naturally included in the new rules that have developed around “trafficking in persons”, those same rules recognize a distinction between child and adult trafficking and a consequent need for a different response. The reasons for this are well expressed in the UN Trafficking Principles and

Guidelines:

The particular physical, psychological and psychosocial harm suffered by trafficked children and their increased vulnerability to exploitation requires that they 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 whether undertaken by public or private welfare institutions, courts of law, administrative authorities or legislative bodies. Child victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs.⁶

Key issues in relation to protection and support for child victims of trafficking include the following:

Identification: The identification of victims of trafficking is a complex and inexact science and special or additional difficulties may arise to complicate the identification process. Most critically, not all child victims of trafficking will appear as such. They may appear to be eighteen years of age or older. Their passports may have been destroyed or taken away from them. They may be carrying false identity papers that misstate their age. Child victims of trafficking may lie about their age because this is what they have been told to do by their exploiters. They may lie because they are afraid of being taken into care or being sent back home. There is growing acceptance of a presumption of age in the case of children to the effect that a victim who may be a child is treated as a child unless or until another determination is made. The presumption of age is linked to the presumption of status: that a child (or an individual who is presumed to be a child) who may be a victim of trafficking is to be presumed to be a victim unless or until another determination is made.

Appointment of a guardian: The appointment of a guardian to protect the rights and interests of child victims of trafficking is an important practical means of securing those rights and interests. Relevant international law and policy affirms that States appoint a guardian as soon as an unaccompanied or separated child is identified. The guardian should generally be responsible for ensuring the child's best interests remain the paramount consideration in all actions or decisions taken in respect of the child; ensuring the provision of all necessary assistance, support and protection; being present during any engagement with criminal justice authorities; facilitating referral to appropriate services; and assisting in the identification and implementation of a durable solution.

Child witnesses: All trafficked persons, children as well as adults, are entitled to use the legal system to ensure their own interests are preserved and their own rights protected. However, it is important to be mindful of the precarious position of victims in the criminal justice system and the risk that such involvement will further compromise their rights and/or wellbeing. These concerns are particularly acute in the case of children who are asked or required to participate in the investigation and prosecution of their exploiters. Child witnesses are especially vulnerable to intimidation and reprisals from traffickers. Their families can also be at serious risk. In addition to safety and protection concerns, the involvement in legal proceedings can cause trauma for the child victim, which may significantly compromise or delay their recovery. In all cases, it will be necessary for the relevant authorities to consider the best interests of each individual child victim in determining whether that child should be involved in criminal proceedings, and, if so, the nature and extent of that involvement

4. The challenge of vulnerability: discrimination and abuse of rights⁷

While our understanding of how trafficking happens and why is incomplete, it is clear that certain factors help to shape the vulnerability to trafficking of an individual, a social group, a community or a society. These factors include human rights violations such as poverty, inequality, discrimination and gender-based violence – all of which help create economic deprivation and social conditions that limit individual choice and make it easier for traffickers and exploiters to operate. Factors that shape vulnerability to trafficking tend to impact differently and disproportionately on groups that already lack power and status in society, including women, children, migrants, refugees and internally displaced persons. Certain occupations such as prostitution and domestic service can produce, nurture or exacerbate vulnerabilities through factors such as low visibility, lack of legal protection or inappropriate regulation.

International law imposes an obligation on States to prevent trafficking through addressing the factors that create or increase vulnerability.⁸ This is a complicated area and in the present context it is only possible to highlight just a few of the areas that must be considered by states in addressing this obligation.

Vulnerability related to inequality and poverty: A UN study on the link between poverty and human rights identifies restricted opportunities to pursue wellbeing as a defining feature of a "poor person."⁹ In this sense, wellbeing refers not just to income level but to basic capabilities that are common to everyone and inherent to human dignity – for example, being adequately nourished, being adequately clothed and sheltered, being able to avoid preventable morbidity, taking part in the life of a community, and being able to appear in public

with dignity. This expanded view of poverty identifies its defining feature as an inadequate command over economic resources. If an individual lacks command over economic resources and this leads to a failure of the kind of basic capacities referred to above, then that person would be counted as poor. This analysis is very important in the present context because it acknowledges that poverty limits life choices. Specifically, it can lead to individuals taking risks and making decisions about their life and their future in a way that they would never have done if their basic capabilities were being met.

Inequality (which can relate to opportunity, as well as wealth and income) is another factor contributing to trafficking-related vulnerability. In that connection it is relevant to note that trafficking inevitably involves the movement of individuals from regions and countries of relatively less wealth, income and opportunity to regions and countries of relatively greater wealth, income and opportunities. In other words, this is not simply a North-South issue: inequalities that impact upon trafficking exist within as well as between countries and within regions as well as between regions.

Both poverty and inequality have strong gender dimensions. In the context of trafficking, the gender determinant can be particularly detrimental. For example, poverty and unemployment increase opportunities for trafficking in women and force many women, including young girls, into prostitution. Women working in prostitution are especially vulnerable to violence and exploitation for a range of reasons, including because their status, inevitably low and often unlawful, tends to marginalize them.¹⁰ Social and cultural attitudes towards women working in prostitution can also operate to increase their vulnerability. The responsibility on States to review and change laws and practices that fuel gender-based discrimination and inequalities leading to or exacerbating trafficking has been extensively acknowledged.¹¹

Vulnerability related to discrimination and to violence against women: Racial and gender-based discrimination are critical factors in rendering individuals and groups susceptible to trafficking. The impact of both racial and gender-based discrimination, particularly in relation to access to education, resources and employment opportunities, results in fewer and poorer life choices. It is the lack of genuine choice that, in turn, renders women and girls more vulnerable than men to certain forms of trafficking, and particular nationalities and races more vulnerable than others. Violence directed against or primarily affecting women can also be a factor increasing vulnerability to trafficking. For example, women may accept dangerous migration arrangements in order to escape the consequences of entrenched gender discrimination, including family violence and lack of security against such violence. In such cases, even unsafe migration may be perceived as providing the best available opportunity to break free from a dangerous and oppressive environment. Women and girls may also be more vulnerable than men to violence, including coercion and force at the recruitment stage, increasing their susceptibility to being trafficked in the first place.

States are under a clear legal obligation to ensure that their laws, systems and practices do not promote, reward or tolerate discrimination. Practical measures to this end that have been identified by the international community include the revision of laws that discriminate on the basis of race, sex, religion or any other prohibited basis. Migrants, including migrant workers are rendered especially vulnerable to trafficking related exploitation because they are often denied key legal rights. For this reason, strengthening of legal and social protections for migrants should be considered a core means of preventing trafficking through reducing vulnerability. Longer-term measures that seek to address the social, cultural and structural causes of violence against women are also important. These may include: reforming legislation that either discriminates against women or fails to address violence against women; ensuring the prompt investigation and prosecution of complaints related to violence against women; providing access to effective remedies for gender-based violence; implementing education initiatives aimed at educating the public about violence against women and addressing negative attitudes towards women (including, in some countries, the association of rape allegations with the crime of adultery); and training police, immigration, judicial and medical personnel and social workers on the sensitivities involved in cases of violence against women.

The special vulnerabilities of children: International law recognizes that children, because of their reliance on others for security and wellbeing, are especially vulnerable to trafficking and related exploitation. This translates into a requirement that States provide special measures of protection and support to trafficked children as outlined at Section 3, above. It also imposes an obligation on States to prevent the trafficking of children by addressing their vulnerability. All measures taken to reduce the vulnerability of children to trafficking should aim to improve their situation – rather than to just prevent behaviors such as migration for work which, while not desirable, especially for young children, may not necessarily be exploitative or lead to trafficking. It is also important to accept that children are not a homogenous group: older children have different needs, expectations and vulnerabilities from younger children; girls and boys can be similarly disaggregated.

That States have a specific obligation to address the special vulnerabilities of children to trafficking is beyond question. There is less clarity with regard to the substantive content of that obligation. However, it is nevertheless possible to identify certain actions that would contribute to States meeting their international legal duty to reduce the vulnerability of children to trafficking. States should, for example, ensure that appropriate legal documentation (including for birth, citizenship and marriage) is in place and available. States should tighten passport, visa and identity document/birth certificate regulations in relation to children, particularly unaccompanied minors and minors accompanied but not by an immediate family members. States should improve children's access to educational opportunities and increase the level of school attendance, in particular by girls. They should protect children from violence, including family and sexual violence. States should act to combat discrimination against girls. They should raise public awareness of the unlawful nature and effects of child trafficking and exploitation. Strategies to address the vulnerability of children to trafficking should acknowledge special needs. Children who may be especially vulnerable to trafficking include girls; abandoned, orphaned, homeless and displaced children; unaccompanied child migrants; children in conflict zones; and children who belong to a racial or ethnic minority.

5. The challenge of addressing 'demand'¹²

Trafficking feeds into a global market that seeks cheap, unregulated and exploitable labour and the goods and services that such labour can produce. Sex tourism (including child sex tourism), the recruitment of domestic labour from developing countries, internet pornography; and the brokered sale of organs are examples of newer forms of actual or potential exploitation made possible through trafficking. It is this realization, coupled with a broader concern that end users of the goods and services produced by trafficked persons have not been sufficiently targeted, that has prompted calls for States and others to consider demand as part of the problem of trafficking and to acknowledge demand reduction as an important prevention strategy. Demand, in this context, generally refers to two quite different things: employer demand for cheap and exploitable labour; and consumer demand for the goods or services produced or provided by trafficked persons. Demand may also be generated by exploiters and others involved in the trafficking process such as recruiters, brokers and transporters who rely on trafficking and victims of trafficking to generate illicit income. It is possible to extend this list even further to include corrupt public officials who receive direct benefit from trafficking as well as "legitimate" businesses (for example in the entertainment, tourism and travel industries) that indirectly profit from the exploitation associated with trafficking.

States can also play an important part in the demand cycle. For example, through a combination of action and inaction States may be responsible for constructing the very conditions under which it is possible or profitable to consume or exploit the labour and services of trafficked persons.¹³ States can also contribute to demand in more direct ways. For example, many countries of destination derive great benefit from cheap foreign labour that, deliberately unprotected by law, can be moved on if and when circumstances require. Some countries that maintain a strong policy position against prostitution are nevertheless comfortable with a marginalized and closeted sex industry comprised principally of exploited foreigners. Countries of origin may rely heavily on the remittances of their overseas workers and be reluctant to interfere with a system that brings economic benefits – even if it is clear that some of their citizens are being severely exploited.

Finally, demand cannot be considered separately from supply – not least because supply may well generate its own demand. For example, the availability of a cheap and exploitable domestic labour force can itself contribute to generating demand for exploitative domestic labour at a level that may not otherwise have existed. Similarly, it is not difficult to sustain an argument that the internationalization and growth of the global sex industry, itself made possible by changes in transport, communication and technology, have fueled the market for persons trafficked into prostitution. However, the broader question – of whether or not an abundant supply of vulnerable individuals has fueled a demand that would otherwise not exist – is more difficult to answer.

International law requires States to take steps to address demand – without specifying in details what those steps could or should be. Fortunately, improvements in our understanding of the dynamics of trafficking and of the factors that increase vulnerability to trafficking have helped to flesh out the substantive content of the obligation on States to address demand for trafficking. For example, in terms of its scope, it is evident that the obligation to address demand rests primarily with the country with which the exploitation takes place, because it is within these countries that both consumer and employer demand is principally generated.

The link between demand and discrimination (most particularly racial and sex-based discrimination) is an important one. Demand in the context of trafficking is often shaped by discriminatory attitudes (including cultural attitudes) and beliefs. Women may be preferred for certain forms of exploitation because they are perceived as weak and less likely to assert themselves or claim the rights to which they are entitled. Certain ethnic or racial groups may be targeted for trafficking-related exploitation on the basis of racist or culturally discriminatory assumptions relating to, for example, their sexuality, servility or work capacities. Demand for prostitution (often

supplied through trafficking) may reflect discriminatory attitudes and beliefs based on both race and gender. In seeking to discharge their obligation to address demand, States should focus on addressing discriminatory attitudes and beliefs, particularly those directed against women and migrants.

States should also recognize their role in shaping demand for the goods and services produced by trafficking through laws and policies on a range of matters, including immigration, employment, welfare and economic development. For example, failure to provide legislative protection to certain individuals such as domestic workers, “entertainers,” or migrant workers creates an environment in which exploitation of these persons becomes both possible and worthwhile. Laws and policies that institutionalize discrimination can also shape demand as can a failure on the part of the State to effectively challenge discriminatory social attitudes, practices and beliefs. A failure on the part of the State to effectively investigate, prosecute and punish trafficking and related exploitation can contribute to demand generated by traffickers and exploiters by maintaining trafficking as a low-risk, high-profit crime. A more general failure on the part of the State to protect the rights of certain persons including women, children, and migrants can further contribute to constructing demand by exacerbating vulnerability, and thereby, exploitability.

Failure to develop and / or enforce labour standards is a major incentive for trafficking and labour protection must be a central element of any strategy to address demand for trafficking and related exploitation. Research confirms that demand for trafficked persons’ labour or services is absent or markedly less where workers are organized and where labour standards regarding wages, working hours and conditions, and health and safety are monitored and enforced.¹⁴ Rights-based strategies to address demand for cheap and controllable labour should therefore aim to secure adequate labour protection, including through properly monitored regulatory frameworks, that also extends to migrants and those working in the informal economy.

Conclusions and recommendations

Trafficking is a heinous crime and violation of fundamental human rights. However it is also a predictable outcome of certain global political and economic realities. These include migration regimes that restrict the ability of individuals to secure legal access to preferred destinations; international and domestic trade policies that liberalize and regulate the movement of money, goods, and services but not labour; rampant consumerism that disregards the human costs of production; and the internationalization, diversification, and explosive growth of the global sex industry. These essentially economic determinants are reinforced by powerful social structures that create or exacerbate vulnerabilities among particular groups including women, children, and migrants and that nurture demand for the main products of trafficking.

Ultimately, addressing trafficking requires frank acknowledgement that exploitation has built our world and continues to power global economic growth. Ending trafficking will require a radical modification of current patterns of demand for the cheap goods, cheap sex and cheap labour made possible through the exploitation of our fellow human beings. This broader project of renewal and reform must move beyond governments to include civil society, the business sector, communities and individuals.

It is essential to never lose sight of this broader picture: and to openly confront the challenges we face in dealing with the political, economic and social factors that drive the exploitation of human being for private profit. However, there is much that can and should be done immediately. The following summary recommendations focus particularly on the key issues addressed in this paper.

Prioritise human rights and human dignity: All responses to trafficking must reflect and enhance the rights and dignity of all human beings. Such an approach requires careful consideration of the ways in which human rights violations arise throughout the trafficking cycle, as well as of States’ obligations under international human rights law. It seeks to both identify and redress the discriminatory practices and unjust distributions of power that underlie trafficking, that maintain impunity for traffickers, and that deny justice to victims of trafficking.

Demand an effective criminal justice response: trafficking is a serious crime and should be treated as such. A criminal justice response that seeks to both end impunity for traffickers and secure justice for victims deserves to take its rightful place as a critical component of any lasting solution. The twin goals of ending impunity and securing justice are intrinsically linked and each one facilitates the attainment of the other. A national strategy that aims to achieve only one of these goals, particularly at the expense of the other is doomed to irrelevance and failure.

Reduce vulnerability to trafficking: trafficking is fueled by poverty, inequality within and between countries, and systemic human rights violations. States and the international community have an obligation to recognise such vulnerabilities and to address them effectively. This requires acknowledgement that certain groups, including migrants, children and women subject to violence, are especially vulnerable to trafficking-related exploitation and that laws, policies and practices can entrench and exacerbate such vulnerabilities.

Address demand for goods and services produced through trafficking: the integration of trafficking into the global economy is the direct result of a seemingly insatiable demand for cheap, unregulated and exploitable labour and the goods and services that such labour can produce. States must acknowledge their role in constructing the conditions under which it is possible or profitable to consume or exploit the labour and services of trafficked persons, and take the appropriate corrective action. Corporations, communities and individuals bear at least a strong moral obligation to address demand and must make serious efforts to identify ways in which this responsibility can be effectively discharged.

Accept the primary responsibility of countries of destination: All countries have a legal obligation—and a moral responsibility—to act against trafficking in persons. However, I have come to believe that the weight of that responsibility rests particularly heavily on countries of destination. It is in places such as Australia, the United States, Western Europe, and the wealthy countries of Asia and the Middle East, where the true profits from trafficking-related exploitation are being generated; where vulnerable victims are trapped; and where the evidence to support strong, high-impact prosecutions is located. This focus has another important benefit. It forces us to confront the reality that human exploitation has built our world and continues to power the global economic growth that benefits our societies disproportionately. It would be sobering to calculate just how big our individual “slavery footprint” might be. In my work, I am inspired every day by the words of Nelson Mandela, who reminds us that “to be free is not merely to cast off one’s chains, but to live in a way that respects and enhances the freedom of others.”

1 United States, Department of State, *Trafficking in Persons Report* (2013).

2 See A Gallagher and P Holmes, ‘Developing an Effective Criminal Justice Response to Human Trafficking: Lessons from the Front Line’ *International Criminal Justice Review* (2008).

3 For further details see A. T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapters 5 and 6. See also the report of the Special Rapporteur on Trafficking in Persons, especially women and children, Joy Ngozi Ezeilo to the Human Rights Council, UN Doc A/HRC/17/35 (2011).

4 This is recognised in the UN Recommended Principles and Guidelines on Human Right and Human Trafficking, at Guideline 2. See also Guideline 10.4 and Principle 10.

5 For further details see A. T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 5.5.

6 *UN Principles and Guidelines on Human Right and Human Trafficking*, at Guideline 8.

7 For further details see A. T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 8.1.

8 See for example *Trafficking Protocol* at Article 9 and *European Trafficking Convention* at Article 5.

9 Office of the UN High Commissioner for Human Rights, *Human Rights and Poverty Reduction: A Conceptual Framework*, UN Sales No. HR/PUB/04/1 (2004) (Human Rights and Poverty Reduction), at 10.

10 *CEDAW General Recommendation No. 19*, at para. 15.

11 See, for example, *CEDAW General Recommendation No. 19*; *UN Principles and Guidelines on Human Right and Human Trafficking* at Guideline 7.6; *Beijing Platform on Action*, at para. 131(b); at paras. 42-48, 54-60.

12 For further details see A. T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 8.2. See also B. Anderson and J. O’Connell Davidson, *Trafficking: A Demand-Led Problem?* (2002).

13 Anderson O’Connell Davidson at 5.

14 Anderson and O’Connell Davidson, *Trafficking: A Demand-Led Problem?*, at 54.