

## **The need for effective witness protection in the prosecution of traffickers: a human rights framework for witness protection**

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### **Introduction**

Witness protection is crucial to ensure the successful prosecution of traffickers. Due to the nature of trafficking as a particularly violent and horrific crime, it is not surprising that victims rarely want to testify against traffickers. Traffickers often threaten or blackmail their victims into staying silent. They may intimidate the victim's family in the country of origin. Under such conditions and when a trafficked person has already been through such a horrific experience, how can we encourage them to testify? How can we ensure their human rights are not further violated by the legal system through the court process? How can we ensure their physical safety to be guaranteed, not only for the duration of the trial but afterwards? Whilst witness protection is important for prosecution, it is also an important starting point in viewing the problem of trafficking from the human rights perspective.

In this paper I will explore exactly we mean when we talk about effective witness protection highlighting the main reasons why trafficked persons do not testify. In doing so, I am considering witness protection in the broader sense of protecting the victim's human rights. Thus the measures considered will look at empowering trafficked persons in the long term, rather than a consideration of practical measures to protect the witness for the duration of the trial. Undoubtedly measures to protect the witness during the trial such as protecting the witness's identity and allowing opportunity for testimony by video are also important. However, such measures are insufficient on their own to ensure that the act of testifying against a trafficker is truly an empowering one for a victim of trafficking.

I will share some of the strategies that have been employed in Europe to illustrate the possibilities and obstacles in long-term victim protection. The paper will have a broad international focus, rather than a particular regional focus of Africa as it is drawing on Anti-Slavery's current research into witness protection<sup>1</sup>. However, it is felt the implications and standards on witness protection are universal. The European examples are particularly relevant for the many persons trafficked from Africa to Europe, and in need of protection.

'Witnesses' in this paper, refers to witnesses who are victims of trafficking and who need protection precisely for that reason. Trafficking is fundamentally an issue of human rights violation, whereby all victims, and not only witnesses or potential witnesses need protection of their human rights.

In this paper I am considering trafficking according to the definition of trafficking in persons in the new *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*<sup>2</sup>, supplementing the *UN Convention Against*

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<sup>1</sup> Anti-Slavery International is currently undertaking research regarding witness protection measures for victims of trafficking in four EU countries, 2 Central and Eastern European countries as well as Nigeria, Thailand, Colombia and the United States.

<sup>2</sup> Article 3 (a) "Trafficking in persons"<sup>2</sup> shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

Footnote (1). The *travaux préparatoires* should indicate that the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.

Footnote (2). The *travaux préparatoires* should indicate that the Protocol addresses the exploitation of the prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons. The terms "exploitation of the prostitution of others" or "other forms of sexual exploitation" are not defined in the Protocol, which is therefore without prejudice to how States Parties address prostitution in their respective domestic laws.

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

*Transnational Organized Crime*. This is the first internationally agreed definition of trafficking and is important because it focuses on the critical elements of deception, coercion, and abuse of power or vulnerability of the victim and does not limit trafficking to the sex industry but to any form of exploitative labour or situation.

### **Why trafficked persons don't testify against traffickers**

As stated by the Office of the High Commissioner on Human Rights, 'prosecution of traffickers will inevitably require the co-operation of witnesses'<sup>3</sup>. Even with specific legislation against trafficking in persons that includes a clear definition of the crime based upon distinct elements and a strict penalty against traffickers, without the testimony of the victim to identify the trafficker and attest to the crime, successful prosecutions are difficult. If we understand that many prosecutions either are never started or fail because of the lack of credible witnesses giving evidence then we need to firstly look at the reality of why many trafficked persons do not report or testify against traffickers. Only by understanding these factors can we ensure witness protection measures are effective.

Trafficked persons may not testify against traffickers simply because they never get opportunity to. The United Nations Special Rapporteur on Violence Against Women in her 2000 Report on trafficking in women and girls stated that 'in the overwhelming majority of countries of destination, deportation remains the primary mechanism for dealing with undocumented immigrants, including trafficked persons'<sup>4</sup>. This is certainly reflected in the

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(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;  
(d) "Child" shall mean any person under eighteen years of age.

Footnote (3). The *travaux préparatoires* should indicate that subparagraph (b) should not be interpreted as imposing any restriction on the right of accused persons to a full defence and to the presumption of innocence. They should also indicate that it should not be interpreted as imposing on the victim the burden of proof. As in any criminal case, the burden of proof is on the State or public prosecutor, in accordance with domestic law.

<sup>3</sup> Economic and Social Council, *Trafficking in Women and Girls: Note Prepared by the Office of the High Commissioner for Human Rights and the ECE Secretariat*, E/ECE/RW.2/2000/3, 1 December 1999 at para 27.

<sup>4</sup> Economic and Social Council, *Integration of the Human Rights of Women and the Gender Perspective: Report of the Special Rapporteur on Violence Against Women, its causes and consequences, Ms. Radhika*

United Kingdom. UK police may recognise a case to be trafficking, but in the absence of specific legislation in the area, it is a very difficult process to enable the victim to stay in the country to ascertain whether or not a case can be brought against the trafficker. Therefore in the majority of cases, trafficked persons are swiftly and quietly deported back to the home country. This is deemed to be in the victim's best interests, also due to insufficient legislation ensuring the trafficker will be jailed for any significant period. In Thailand, a witness may corroborate in a preliminary investigation resulting in charges being laid against the trafficker, however, witnesses are often deported before the case goes to trial<sup>5</sup>. Without witness testimony, most prosecutions are unsuccessful.

Beyond inability to testify, the fact is many trafficked persons do not want to give evidence against the trafficker because they are very fearful for themselves and their families, and for good reason. Traffickers commonly use threats and blackmail to prevent victims from going to the police and reporting what has happened to them. In addition, because the trafficker usually operates as part of an organised syndicate, the imprisonment of traffickers in the destination country does not mean the victim or her family are safe, as other members of the syndicate are still free. If a victim does assist police in identifying the trafficker and agrees to testify, she and her family may experience more threats or reprisals. Consider the following case example supplied by the Human Rights Caucus<sup>6</sup>:

*During criminal investigations against traffickers, Sarah<sup>7</sup>, a witness and victim of trafficking, stayed at a secret women's shelter in Western Europe. Even though the shelter was secret the traffickers found her. She received anonymous postcards threatening to kill her two-year-old daughter (who she had left at home with her grandmother), if she dared to pursue the case. Her mother also received threatening telephone calls. Her mother went*

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Coomaraswamy, on trafficking in women, women's migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44, E/CN.4/2000/68, 29 February 2000 at para 67.

<sup>5</sup> Source: Global Alliance Against Traffic in Women.

<sup>6</sup> The Human Rights Caucus consists of the International Human Rights Law Group, Foundation Against Trafficking in Women, Global Alliance Against Traffic in Women, Asian Women's Human Rights Council, *La Strada*, *Fundacion Esperanza*, *Ban Ying*, Foundation for Women, KOK-German NGO Network against Trafficking in Women, Solomon Foundation, Women's Consortium of Nigeria and Women, Law and Development in Africa (Nigeria). It was formed primarily for lobbying on the Trafficking Protocol at the UN Crime Commission, Vienna.

*to the police for protection she was told that they would do nothing and that it was Sarah's own fault for leaving her home. Without being able to rely on protection, Sarah decided to withdraw her statement and not act as a witness.*

This clearly illustrates the genuine fear of reprisals many trafficked women face, and why they do not want to put themselves or their families at risk by agreeing to testify, because their safety cannot be guaranteed. Clearly any system of witness protection needs to give primary importance to the physical safety of the victim and her family.

*In Sarah's case, an NGO supported her to eventually convince the authorities of the need to have her daughter join her in the women's shelter. She then felt safe enough to continue as a witness and as a result of her testimony three persons were convicted of trafficking.<sup>8</sup>*

Sarah's case is a good example of how effective witness protection (in the end though not initially) led to the conviction of the traffickers.

Trafficked persons from Nigeria are often forced to undergo ritual cultural oaths of secrecy, which then act as extra protection for the trafficker to prevent women from escaping and talking about their experience to anyone, including authorities. This cultural oath has the hold over them, rather than threats or physical violence. Anti-Slavery heard of a Nigerian girl trafficked to the UK whose belief in the power of the oath was so strong that she refused to speak about her experience to anyone for a long time. Some time after she did speak about the trafficker to authorities, she fell and hurt her leg. She was convinced the accident was related to breaking the oath, and refused to disclose any more details about her experience.

In addition to fear of reprisals and repercussions and a lack of faith in the police, many other reasons influence why a victim of trafficking may not wish to testify against traffickers. When victims of trafficking are discovered or rescued from their situation,

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<sup>7</sup> All names have been altered to protect each person's identity.

<sup>8</sup> Source: Human Rights Caucus, *supra* note 6.

often they are very scared they themselves will be prosecuted for being illegal immigrants, working illegally or without a permit. This fear is not misguided as in most countries trafficked persons are treated more like criminals than victims. *The Hague Ministerial Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation* note that ‘women often refrain from reporting to authorities because they are faced with arrest, detention and expulsion as illegal aliens and/or prostitutes’<sup>9</sup>.

This is certainly reflected in the treatment of Nigerian women and girls trafficked to Italy at the hands of the Italian authorities. In a report issued jointly by a Nigerian NGO, Women’s Consortium of Nigeria (WOCON) and The Advocacy Project, researchers noted:

*‘Any foreigner in Italy... is liable for arrest if found without papers. According to Italian diplomats, they are then put in a detention centre for a maximum of fifteen days before being released or deported. One diplomat said that first offenders will often be given one warning, but that if they are picked up again they will usually be deported. Once a sufficient number have been detained, a plane is chartered and the girls are sent back to Nigeria’<sup>10</sup>.*

Clearly, the trafficked women are being treated more like criminals than victims, with no regard for protecting their human rights.

Trafficked persons may sometimes feel that what has happened to them is somehow their fault, they may be embarrassed or ashamed of what has happened. They feel that the process of getting the trafficker to court will be a slow one, and simply want to return home to their families without a long court case through which they will have to relive their entire experience. It may be very painful for them to talk about their experience.

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<sup>9</sup> Ministerial Conference under the Presidency of the European Union, *Hague Ministerial Declaration on European Guidelines for Effective Measures To Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation*, DCE/97-429, 26 April 1997 at para III 2.

<sup>10</sup> Advocacy Net and Women’s Consortium of Nigeria (WOCON), *Girls for Sale: The Scandal of Trafficking from Nigeria*, On the Record Email series, 2000 at 13. See [http://www.advocacynet.org/news\\_5.html](http://www.advocacynet.org/news_5.html)

Finally, bearing in mind the fact that most people who are trafficked leave their home countries due to reasons of economic need, this is no less a factor when they have been rescued from their situation, and thus is still a primary consideration for many trafficked persons. Additionally they may still worry about the debt they owe the trafficker and that it is not yet paid off, as revealed in the research of Human Rights Watch concerning trafficking of Thai women into debt bondage in Japan.

*Bee escaped from a snack bar in Yokohama without fully repaying her debt, but her agent, who was also one of her relatives, found out and threatened her family. 'The agent went to my family and warned "if Bee cannot pay her debt, I will take your land and house from you". My family was shocked and they contacted me, saying there is a big problem so send money to me immediately'. So Bee sent them money to pay off the agent.*<sup>11</sup>

In situations such as Bee's, the fact that she has escaped from the situation of being trafficked does not mean that she has escaped the debt. We know of similar cases here in Nigeria. Even for trafficked persons who do not have a debt, the economic reality is they return home empty-handed and unable to support their families. For such persons, often they feel they need to go away again in order to earn money for themselves or their families. Thus they do not want to spend months or even years on end without work in the destination country simply in order to testify against a trafficker.

These factors are important to gain an understanding of why trafficked persons may not want to report, let alone testify against traffickers. Acknowledging these factors as obstacles to the successful prosecution of traffickers, we can then consider what measures may be put in place to overcome these obstacles, and place victims in a position where they can feel secure enough to act as witnesses.

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<sup>11</sup> Human Rights Watch, *Owed Justice: Thai Women Trafficked Into Debt Bondage*, USA, 2000 at 115.

### **Temporary residence in the destination country: an essential starting point**

Clearly trafficked persons need to be able to stay in the country of destination in order to testify against traffickers there. Thus temporary right of residence is integral to any witness protection programme, the question is, for it to be truly effective how should the temporary residence permit be structured and for what period of time?

### **Rest period**

As stated in the Hague Ministerial Guidelines for EU Member States, ‘a critical condition to an effective detection, investigation and prosecution of traffickers is the readiness of the women concerned to report to the police and act as a witness’<sup>12</sup>. Belgium and the Netherlands are two countries that have legislation<sup>13</sup> enabling victims who agree to act as witnesses a temporary right of residence for the duration of court proceedings. Both countries also contain provisions so that a person is entitled by law to stay in country if there is any suspicion that the person has been trafficked, effectively a stay of deportation.<sup>14</sup> As mentioned above, when a trafficked person is rescued or initially interviewed by authorities they are very scared, confused and usually not feeling strong enough to face the thought of a long trial process. The objective of this initial temporary period of stay period is to act as a ‘rest’ period for the victim by the end of which she must decide if she wants to report the trafficker. If she does, she will receive temporary residence until the end of the court case or if she does not, she will be deported.

During the ‘rest period’, trafficked persons are provided with shelter, services such as financial assistance, health and counselling. In Belgium and the Netherlands, organisations specialised in assisting trafficked persons and recognised by the government are there to help and support the victim in bringing the charges and in dealings with the police and immigration<sup>15</sup>. This is important for the trafficked person to recover from her ordeal and

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<sup>12</sup> Hague Ministerial Guidelines, *supra* note 9.

<sup>13</sup> *Circular of 7 July 1994 concerning the right to remain and work permits for foreigners who are victims of human trafficking* (Belgium) and *B17 Regulation* (1988) (Netherlands).

<sup>14</sup> 45 days in Belgium or 90 days in Holland.

<sup>15</sup> Grossi, ‘Measures to Prevent and Combat Trafficking in Women in Belgium’, in *European Strategies to Prevent and Combat Trafficking in Women*, International Conference Commemorating the International Day of Action Against Violence Against Women, Berlin Senate Department Labour, Vocational Training and Women’s Affairs, Berlin, 1998 at 102.

make a careful decision about whether it will be in her best interests to press charges against the trafficker. This period of time is equally important for trafficked persons to recover enough to be an effective and credible witness for the prosecution and to make a coherent statement of the facts, unclouded by the preliminary fears of deportation or prosecution or intimidation by authorities. It is a useful period for police to continue in their investigation to build the case against the trafficker.

### **Service provision during the period of temporary residence**

Whether for the duration of criminal proceedings or for any other period, temporary residence on its own is not ‘protection’. Adequate service provision for trafficked persons to assist them to recover from their ordeal is an essential part of any witness protection programme. The Office of the High Commissioner on Human Rights has noted that the cooperation of witnesses ‘will depend, to a great extent, on the capacity of states to protect and support victims of trafficking’<sup>16</sup>.

It is integral that during the period of temporary residence that the trafficked person is not locked away or put in detention, but is given appropriate housing. In circumstances where the victim’s personal safety is at risk this should be a secure and secret shelter. If threats have been made against the family, all efforts should be made to coordinate with local police to protect the safety of the family. In some circumstances, such as Sarah’s case mentioned earlier, it will be important to extend such protection to close family members to avoid indirect pressure placed on the witness.

We need to ensure that other aspects are covered such as access to social and medical services, financial support, counselling and information about the legal process in a language the victim can understand. All of these are recommended in the Hague Guidelines as measures to encourage and assist victims to report to the police and act as witnesses<sup>17</sup>. They are also mentioned under Article 6(2) of the *UN Protocol to Prevent*,

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<sup>16</sup> OHCHR, *supra* note 2 at 28.

<sup>17</sup> Hague Ministerial Guidelines, *supra* note 9 at III.2.1.

*Suppress and Punish Trafficking in Persons*<sup>18</sup>, which additionally mentions the need for employment, education and training opportunities for all victims of trafficking.

### **Right to work**

Employment or the right to work is an important aspect also for effective protection of the witness, in terms of ensuring they do not return empty-handed after a lengthy trial but to actually save some money in that time period. In Belgium, once charges have been pressed against the trafficker the victim can get a three-month renewable permit including the right to work. It also provides financial assistance if trafficked persons are unable to find work. Payoke, one of Belgium's service providers for trafficked persons explains, 'employment often contributes to (the creation of) a more positive self-image and a more structured and therefore more stable life for the victim'<sup>19</sup>.

### **Beyond victims as a tool for prosecution**

However, in highlighting some of the advantages of the system of witness protection in Belgium and the Netherlands, there are also some serious flaws in these types of schemes. In the Netherlands, it only applies to victims of trafficking for the sex industry, and does not confer the right to work. The protection period only lasts whilst she is a witness and the trafficked person does have to return home at the end of the trial, no matter what the outcome. By law there is the possibility for a victim to receive a residence permit for humanitarian reasons, but in practice this happens very rarely<sup>20</sup>. In Belgium, Payoke has been critical of the right to work not being effective in practice due to systemic bureaucratic delays in paperwork<sup>21</sup>. The victim can get permanent residency in Belgium, but only if the prosecution results in a conviction. Even so, the penalty for trafficking is not very high. The maximum penalty is five years, meaning in reality most convicted traffickers only spend one or two years in jail. In fact, judges prefer to give fines rather than custodial sentences. This is because no distinction is made between trafficking and

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<sup>18</sup> Attached to the UN Convention Against Transnational Organised Crime (2000).

<sup>19</sup> Grossi, *supra* note 15 at 108.

<sup>20</sup> Mongard (TAMPEP International Foundation) 'Legislation in the Netherlands concerning Prostitution and Trafficking in Women: Development of Professional Strategies to Combat Trafficking in Human Beings', in European Strategies to Prevent and Combat Trafficking in Women, *supra* note 15 at 34.

<sup>21</sup> Grossi, *supra* note 15 at 112.

smuggling. Trafficking is seen as a problem of organised crime generating high profits and the victim of trafficking is not recognised as a victim of violence.

The Belgian and the Dutch model of witness protection adopts a crime control approach which links the protection of the victim to her ability to testify and therefore also to the successful apprehension of the trafficker. The victim is used by the court system to strengthen the prosecution's case and then returned home again once her period of usefulness is over. From a human rights perspective, a better system would adopt a measure of witness protection that is more grounded in the social assistance of trafficked persons generally.

In Italy, there has been a move towards the social protection approach. Under a revised immigration law<sup>22</sup>, trafficked persons may get a renewable temporary residence permit of six months if they participate in an assistance and integration programme, whether or not they denounce traffickers<sup>23</sup>. In March 1999, this law was revised further so that those who do denounce traffickers will be given protection like that given to witnesses who testify against organised criminal groups such as the Mafia. What this means is that trafficked persons are more likely to gain the permit if they denounce their traffickers, and in doing so they will receive appropriate protection.

Whilst the Italian approach sounds excellent in theory, unfortunately its implementation has been lacking, and Italian authorities still seem to favour treating trafficked persons as illegal immigrants and deporting them, rather than allowing them to stay under the revised law. Despite the efforts of local NGOs assisting migrants, many trafficked persons are not aware of the existence of this law and therefore do not know their rights to stay in the country.

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<sup>22</sup> Law 40 of 1998.

<sup>23</sup> Source: TAMPEP International Foundation (Italian branch).

### **Physical security in countries of origin and destination**

Up till now we have focused on trafficked persons acting as witnesses in the country of destination, however witness protection is equally important of course in countries of origin if not more so. The following case illustrates the point.

*The man who trafficked Karena to a Western European country was sentenced to three years in prison. Sometime after the trial, Karena's life was threatened by someone in nightly telephone calls and anonymous letters. Cars followed her and someone put a dead bird in her letterbox. The police told her that it could not be the trafficker because he had been jailed. However, after a year of non-stop harassment, Karena discovered that the information given to her had been incorrect. The trafficker had been released after his initial detention. When Karena realised the danger to which she had been exposed she had a complete nervous breakdown and had to be hospitalised<sup>24</sup>.*

This highlights the need for witness protection not to be limited to the length of the trial proceedings. Anti-Slavery has also heard of reports of trafficked Nigerian women being subject to intimidation or even murdered upon their return<sup>25</sup>. Protection should not end when a trial ends, or when a woman returns to her home country. Particularly considering the nature of organised crime, a trafficked person who does testify against her traffickers may still be in danger even if the prosecution is successful in the destination country. Where victims to return home, there is a need for co-operation between authorities in country of destination and origin in the repatriation process.

This is to ensure the protection of the trafficked persons, especially in terms of respect for their human rights in the return and reintegration process. For example, Women's Consortium of Nigeria has reported that trafficked women returning from Italy have been subject to detention for several weeks, during which time they must undergo forced health checks for STDs including for HIV/AIDS. Further, on occasion, 'the government has taken

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<sup>24</sup> Source: Human Rights Caucus, *supra* note 6.

<sup>25</sup> Source: Women's Consortium of Nigeria (WOCON).

a policy decision to make an example out of the girls and exhibit them to the press, in an attempt to generate some bad publicity around trafficking'<sup>26</sup>.

This is another instance where trafficked persons are treated more like criminals than victims, with a disregard for the basic human rights such as to be free from arbitrary detention, to equal treatment with all other persons and to privacy. What is required when trafficked persons return home, especially witnesses, is that they be afforded social assistance by the government in an empowering rather than repressive fashion. Trafficked persons who return home may still require housing, counselling, education, training, legal, financial and medical assistance. Social protection of the State is especially important if the trafficked person has acted as a witness in criminal proceedings abroad.

If criminal proceedings are taken against the trafficker in the country of origin, and the trafficked person acts as a witness, the same protections are required as if in the country of destination. Particular consideration should be given to protect the victim's right to privacy bearing in mind local attitudes towards trafficking and migrating to work abroad may make it more difficult for her to speak about her experience in her home country.

### **Recommendations and Conclusion**

To successfully combat trafficking in persons we need to take a three-pronged approach involving prevention of trafficking, prosecution of traffickers and protection of human rights of trafficked persons. Often, however, government responses to trafficking focus on the elements of prevention and prosecution, without giving human rights protection the importance it deserves. The key to effective witness protection is to take a human rights perspective in order to ensure the process of prosecuting the trafficker is an empowering one for the victim, rather than a process through which she is revictimised.

This conference is an important step for African governments and civil society to tackle the issue of trafficking in persons as a region. As the theme of this conference is Evolving African Regional Initiative Against Human Trafficking, we should consider the specific

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<sup>26</sup> WOCON, *supra* note 10 at 14.

actions governments can take in regard to this issue. For effective witness protection in the prosecution of traffickers, States should ensure:

1. Trafficked persons are provided with a right to stay or temporary residence permit and prevent immediate deportation of trafficked persons. The temporary residence period should include a rest period during which time trafficked persons can decide whether or not they want to denounce their trafficker.
2. Trafficked persons' right to stay in the country of destination is not to be limited to them acting as witnesses and criminal proceedings against the trafficker.
3. The right to stay includes the right to work.
4. Trafficked persons and close relatives are protected from intimidation, threats and reprisals.
5. The safety and integrity of trafficked persons is not subordinated to the interests of the prosecution<sup>27</sup>.
6. Before, during and after criminal proceedings of traffickers, trafficked persons are informed of the progress of the case.
7. Provision of social assistance such as shelter, counselling, medical services, language and training courses, financial assistance and assistance in obtaining employment are made available to all trafficked persons.
8. Financial assistance is provided to non-governmental organisation assisting trafficked persons.
9. All repatriation is voluntary and trafficked persons are able to apply for permanent residence if there is a risk to their life if they return home.
10. Co-operation and communication between authorities and agencies in countries of origin and destination in regard to providing protection for trafficked persons.

In terms of the role of civil society, non-governmental organisations assisting trafficked persons should ensure they do so in a way that empowers victims of trafficking. Effective witness protection means looking at the reality of the situation when victims of trafficking

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<sup>27</sup> International Human Rights Law Group, Foundation Against Trafficking, Global Alliance Against Traffic in Women, *Human Rights Standards for the Treatment of Trafficked Persons*, Bangkok, 1999 at II. 4.

escape or are rescued from their situation. Scared, confused and often still under the psychological coercion of the trafficker, trafficked persons need time to recover from their situation before they can consider reporting and participating in proceedings against traffickers. We need to ensure the judicial process is an empowering one for the victim. Beyond ensuring her rights are not further violated by treating her as a criminal instead of a victim, this involves placing the trafficked person in a better situation than before she was trafficked, so that she is not revictimised by the court process or by traffickers. It involves putting the trafficked person in a position where they are fully able to exercise their human rights. Only with an understanding of the position of the victim, will witness protection measures be truly effective. We should not see witness protection as the ultimate goal. In the long term our goal is to ensure all trafficked persons are protected not simply those who act as witnesses.