

**THE 2013 OSCE-AUSTRALIA CONFERENCE ON IMPROVING THE  
SECURITY OF WOMEN AND GIRLS**

Adelaide, Australia, 18 and 19 March 2013

***THE EFFECT OF ANTI-TRAFFICKING MEASURES ON THE RIGHTS  
OF TRAFFICKING VICTIMS AND VULNERABLE GROUPS***



**Remarks by Douglas Wake, First Deputy Director,  
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*Check against delivery!*

Adelaide, 19 March 2013

Excellencies,  
Distinguished guests,  
Ladies and gentlemen,

I am happy to be here with you today and to represent the OSCE Office for Democratic Institutions and Human Rights – ODIHR. I am also delighted to share the floor with the other distinguished panel members.

It is my pleasure to see so many participants from across the OSCE region and from the OSCE Asian Partners for Co-operation, including representatives of international organizations, experts, State officials and representatives of NGOs. I am confident that this Conference is making a great contribution to closer co-operation between the OSCE participating States and the Asian Partners in the area of enhancing protection of women and girls' rights. I would like to commend the organizers for this valuable initiative and the enormous work done.

In my intervention today I would like to focus on the effect of anti-trafficking measures on the rights of victims of trafficking and vulnerable groups. I will address several important questions in this regard from the perspective of ODIHR – the main institution of the OSCE's human dimension, which has a broad mandate to assist OSCE participating States in implementing their commitments in the fields of human rights, democratic elections, democratic governance, tolerance, non-discrimination and the rule of law.

Before discussing the impact of anti-trafficking policies on the rights of vulnerable and trafficked persons, it may be useful to recall which human rights of such persons are so often violated or threatened in situations where trafficking of human beings is prevalent. Regrettably, the list includes the most basic rights guaranteed to every human being in a wide range of international instruments, the most notable of which is the Universal Declaration of Human Rights. To name just a few, these rights include: the right to life, to liberty and security of person; the right not to be held in slavery or servitude; the right not to be subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment; protection

from expulsion (non-refoulement); the right to recognition everywhere as a person before the law; and the right to an effective remedy.

In determining how anti-trafficking policy may affect the enjoyment of the rights I have enumerated, we should next define **what anti-trafficking policies are**. Who is involved in formulating these policies? Which agencies are responsible for implementing them? From a broad perspective, anti-trafficking policies should involve concerted efforts to apply a combination of legislative, law enforcement, judicial, administrative, social welfare, educational, and other instruments to prevent trafficking from occurring in the first place, to prosecute and punish those responsible for trafficking, and – most important – to protect the rights and address the needs of victims or potential victims. Looking at anti-trafficking policy through a human rights lens enables us to see that the anti-trafficking response is not comprised solely of reactive police investigation, prosecution and shelters for victims. It enables us to see that immigration policy, adoption and marriage laws, labour policies, social protection, education, gender equality and minority-protection policies – all form a part of anti-trafficking measures alongside criminal justice measures, such as investigation, prosecution, and confiscation of criminal assets.

One of the integral elements of any policy is **gender mainstreaming**. In the context of anti-trafficking, gender mainstreaming deserves special attention. Allow me to explain why. Since 1999, when ODIHR integrated anti-trafficking activities in its work, trafficking in human beings has been constantly evolving. Initially seen almost exclusively as trafficking in women and girls for sexual exploitation, it is acknowledged today that a significant share of the trafficking industry also targets men and boys for labour exploitation, forced begging, forced criminal activities, etc. Yet, attention of many anti-trafficking actors is still focused only on women. Without prejudice to the main topic of our Conference today, I would simply highlight that trafficking in human beings is an area where men as victims are often overlooked and thus subjected to discrimination and abuse. Through years of work ODIHR has seen only a few organizations and projects offering specialized services to men who are victims of trafficking. We have noticed that state officials often lack skills or the will to identify men as victims of trafficking. We have also observed that men's awareness of the topic of trafficking is lower than the awareness of women, which is a major obstacle to their

self-identification and protection. I would like to encourage all participants to remember that a gender-balanced approach means ensuring that anti-trafficking measures reflect interests and concerns of both women and men equally.

Answering the question of **which agencies should develop and implement anti-trafficking policies** to make them efficient, I would suggest that any anti-trafficking policy must be as comprehensive as possible. Law-enforcement, prosecutors, immigration officers, judges, labour inspectors, sanitary services, fire inspectors, medical personnel, lawyers, civil society, and private sector organizations - all should be part of anti-trafficking policies. Since 2004, when ODIHR published the Handbook on **National Referral Mechanisms**, this extensive framework of agencies involved in anti-trafficking work has come to be referred to as an **NRM**. Although the NRM Handbook is nearly ten years old, and will be updated in due course, it continues to be a tool for the OSCE participating States and partners in developing effective anti-trafficking frameworks.

The main question I want to address is **how to make sure that anti-trafficking policies do not have a negative effect on victims of trafficking**. The answer is broadly referred to as a **human rights-based approach**. This approach forms the paradigm of ODIHR's anti-trafficking work. The human rights-based approach, contrary to the criminal justice approach, is centered on the victim and his or her rights. It means that the impact of any measure should be evaluated from the point of view of interests and rights of the victim. It also means that anti-trafficking measures should be targeting traffickers, not victims. Easier said than done, practical implementation of this approach requires a lot of resources and knowledge on the part of all anti-trafficking actors. It needs to be duly established in the legislative framework. It should be supported by necessary budget resources. Personnel involved in anti-trafficking activities must be properly trained.

Rights of victims should not be sacrificed to state security considerations, interests of investigations or migration rules. It might be easier to expel an irregular migrant than to identify in such migrant a victim of trafficking. Yet, if the human rights-based approach is applied, a presumed victim of trafficking, regardless of residence status, should be afforded necessary protection and assistance, even if he or she might become a burden on the social

benefits system of the State. Let us remember that the human rights-based approach is an obligation, not a matter of choice. It derives from the positive obligations that states assumed under international human rights law and international anti-trafficking instruments and should be inherent in all anti-trafficking measures.

While striving to build human rights-compliant policies we should all acknowledge that there is still a long way to go. To this end, it is important to provide the means to trafficked persons and vulnerable groups, whose rights were violated, to **claim justice** through accessible and affordable means. One of the remedies ODIHR has been advocating is compensation for moral and material damages suffered as a result of trafficking. ODIHR supports the idea of establishing State funds for victims of crimes, which cover trafficked persons. These funds should be used especially when there is no possibility to obtain compensation from the perpetrator.

Taking this opportunity I would like to **highly praise and express gratitude to the Government of Australia for the support it provides to ODIHR's anti-trafficking activities**. In July 2012 ODIHR started its 3-year project on Human Rights Protection for Trafficked Persons and Vulnerable Groups in Central Asia, funded by the Australian Agency for International Development. This project concentrates on three priority areas: National Referral Mechanisms for protection of victims of trafficking, access to justice for trafficked persons, and capacity building for anti-trafficking actors, including Government agencies, civil society and lawyers. Part of this project will be dedicated to small grants for local NGOs encouraging empowerment and participation of victims/survivors and vulnerable groups. ODIHR cooperates closely with the OSCE field operations and national anti-trafficking actors in the Central Asian countries to make sure the activities reflect actual needs on the national level. We are convinced that this project will be a valuable contribution to building up the anti-trafficking capacity in the region.

To conclude, I would like to reassure all the participants of this Conference of ODIHR's willingness to provide expert assistance and support in your efforts to build effective and human rights-centred anti-trafficking mechanisms and policies. Even as we continue to assist the OSCE's participating States in implementing their commitments, ODIHR also stands

ready to exchange experience and provide support, in line with the established practice, to any or all of the Asian Partners for Co-operation.

Thank you!