

**TENTH COORDINATION MEETING ON
INTERNATIONAL MIGRATION**

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**PROMOTING A CRIMINAL JUSTICE RESPONSE TO SMUGGLING OF MIGRANTS
AND TRAFFICKING IN PERSONS ANCHORED IN THE HUMAN RIGHTS
APPROACH. A CONTRIBUTION TO THE SECURITY AND SAFETY OF MIGRANTS¹**

United Nations Office on Drugs and Crime (UNODC)

¹ The views expressed in the paper do not imply the expression of any opinion on the part of the United Nations Secretariat.

Smuggling of migrants and trafficking in persons are crimes affecting almost every country whether as origin, transit or destination countries. These illegal activities prey on the desire of individuals for a better life, fuel huge profits, and often endanger the life and safety of the migrant. There are many reasons why individuals may decide to leave their country, but not all migrants have the opportunity to do so legally. Traffickers and smugglers take advantage of these weaknesses and vulnerabilities, offering hopes for a better future, while exposing migrants to abuse and exploitation. To effectively address these crimes it is necessary to take an integrated approach and for all stakeholders to cooperate. Human rights must be mainstreamed by protecting the rights of the trafficked victims and of the smuggled migrants. Organized crime hinders development and takes advantage of fragile states, or countries in transition. Effective action in this crucial area requires a comprehensive approach that confronts the underlying issues of migration and development, especially those related to poverty.

As guardian of the United Nations Convention against Transnational Organized Crime and its additional Protocols to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and against the Smuggling of Migrants by Land, Sea and Air, the mandate of the United Nations Office on Drugs and Crime (UNODC) is to assist the international community to prevent and combat these crimes, prosecute the criminals who commit them, protect and assist trafficked persons and the rights of smuggled migrants, and promote cooperation to these ends. The assistance provided by UNODC focuses on the criminal justice components of combating trafficking in persons and smuggling of migrants, keeping in mind the need to assist and protect victims of trafficking in persons and protect the rights of smuggled migrants. It focuses on the main challenges to be addressed despite the efforts put into addressing trafficking in persons and smuggling of migrants: insufficient prevention and awareness; lack of data and research; inadequate policies and planning; weak criminal justice response; inadequate protection and support and limited international cooperation.

In the year leading up to the High Level Dialogue on International Migration and Development, UNODC wishes to share with Member States, United Nations agencies and other relevant international organization information about its current activities, and new initiatives, which contribute to the overall goal of the Office to make the world safer from drugs, crime and terrorism and in particular to ensure the security and safety of migrants, including victims of trafficking in persons and smuggled migrants. Recognizing that trafficking in persons and smuggling of migrants are serious threats to human dignity, the Office recently established a comprehensive strategy which sets out the complementary nature of its work in preventing and combating human trafficking and migrant smuggling and defines the priorities for the future action and engagement of the Office. The work of UNODC revolves around three inter-related and mutually reinforcing areas: Research and awareness raising; Promotion of the Protocols and capacity building; Strengthening of partnerships and coordination. UNODC currently assists over eighty United Nations Member States through its technical assistance programmes dedicated to trafficking in persons and smuggling of migrants.

A. RESEARCH AND AWARENESS RAISING

UNODC performs valuable research that helps to improve the information available on these crimes and allows for an evidence-based response. UNODC also uses this information to raise awareness and to communicate effective responses to these crimes and the human rights abuses they engender. The dissemination is carried out on the basis of a strategy developed by the Office, which relies on a dedicated section of its website and an effort to disseminate tools, manuals and

publications to a large number of experts and partners whose contact details are gathered in an internal databaseⁱ.

1. *Global Report on Trafficking in Persons*

In the framework of the Global Plan of Action to Combat Trafficking in Persons adopted in July 2010, the United Nations General Assembly mandated the United Nations Office on Drugs and Crime to produce a Global Report on Trafficking in Persons every two years, starting in 2012. The first Report will provide a global view of patterns and flows of trafficking in persons, and will include regional information, as well as country information. The report will also include a chapter on the response to trafficking in persons. The period considered for the analysis covers the years from 2007 to 2010 or more recent. The Report will be based on authoritative and validated information gathered primarily from national institutions. The data gathering officially concluded in November 2011 and was subsequently followed by a data editing and data analysis phases. Further to a phase of validation of the information by Member States, the Report will be launched in December 2012.

2. *Issue Papers*

In order to support Member States in their implementation of certain provisions of the Protocols or implementation in a specific context, the Office produces a series of Issue Papers on topics such as: Smuggling of Migrants by Sea; Smuggling of Migrants by Air; Transnational Organized Crime involvement in Trafficking in Persons and Smuggling of Migrants; Combating Trafficking in Persons according to the Principles of Islamic Law. The purpose of these papers is to capture expertise from a range of experience of countries of origin, countries of transit and countries of destination with a view to increase the understanding of the issue and the challenges in addressing it. The papers also provide recommendations for Member States and practitioners. Additional papers are under development, such as: Vulnerability to Trafficking in Persons; Smuggling of Migrants and Corruption.

B. PROMOTION OF THE PROTOCOLS AND CAPACITY BUILDING

The United Nations Office on Drugs and Crime ensures the ratification and effective implementation of the Protocols on Trafficking in Persons and Smuggling of Migrants and provides both normative and technical assistance and capacity-building to Member States in this regard. Examples of such work, which could inform discussions leading up to the High Level Dialogue are presented below.

1. *Strategic Planning and Development*

The Office seeks to support Member States in the development of their own strategy and in the appraising of their efforts to combat trafficking in persons and the smuggling of migrants while protecting the rights of victims of trafficking and upholding the rights of migrants. Tools such as the International Frameworks for Action to Implement the Trafficking in Persons and the Smuggling of Migrants Protocol aim to provide answers to some of the challenges faced by Member States. Both Frameworks for Action take stock of the relevant international instruments and address some of the main challenges faced in the implementation of both Protocols since their entry into force. Through the Frameworks for Action, States are assisted in identifying gaps in their own response to trafficking in persons and migrant smuggling and in putting in place measures in accordance with international standards. Non-state actors are also assisted in their efforts against trafficking in persons and migrant smuggling through referring to the Framework for Action and the international standards reflected therein as a means of orienting their work.

2. *Criminal Justice Response*

The United Nations Office on Drugs and Crime developed a series of training manuals gathering a broad range of expertise from around the world in order to ensure that good practices are gathered and taken into consideration. The training activities delivered by the Office are based on this range of manuals. Training manuals encourage the involvement of relevant stakeholders, including civil society. Training sessions conducted by the Office involve as much as possible representatives of civil society. A few examples of these tools are describes below.

a. Anti-Human Trafficking in Persons Training Manual and Basic and In Depth Training Modules against the Smuggling of Migrants

Both Manual and Modules aim to assist Member States to fulfil their obligations under the Trafficking in Persons and Smuggling of Migrants Protocol. The diversity of those involved in the elaboration of the Manual and Modules reflects its target audience: criminal justice practitioners including investigators, examining judges, investigating judges, prosecutors, magistrates, law enforcement officers, border agents and all other professionals who are part of the criminal justice system. The objective is to offer its users a theoretical understanding and a practical approach to the investigation and prosecution of migrant smuggling and trafficking in persons, relevant to all countries regardless of their legal system or whether they are countries of origin, transit or destination for migrant smuggling.

b. First Aid Kit

The UNODC Human Trafficking First Aid Kit for Law Enforcement Agencies has been designed to support front-line officers who may come into contact with cases of human trafficking. The First Aid Kit has been designed in response to the need identified by many practitioners in different regions of the world to make easy-to-use information available to all law enforcement officers, to increase the identification of trafficked persons.

c. Human Trafficking Case Law Database

The database is a reporting system for collecting and disseminating information on human trafficking prosecutions and convictions. It intends to enable judges, prosecutors, policy-makers, media, researchers and other interested parties to take court decisions relating to these instruments into account, to promote the uniform interpretation and application of these instruments, to consult on practices in different jurisdictions, and to broaden the knowledge of human trafficking crimes as well as the realities faced by ordinary people victimized by those who buy, sell and exploit them.

C. STRENGTHENING OF PARTNERSHIPS AND COORDINATION

The Office is committed to playing a critical role in bringing together stakeholders to facilitate dialogue and coordinate responses. A key part of this role is effective inter-agency coordination at both the policy and operational levels in order to advocate for common standards and approaches and to share expertise, while maximizing efficiency.

1. *The Inter-Agency Coordination Group against Trafficking in Persons*

The Inter-Agency Coordination Group against Trafficking in Persons (ICAT) is a policy forum mandated to improve coordination among UN agencies and other relevant international organizationsⁱⁱ to facilitate an integrated approach to trafficking in persons. Issues prioritized by the ICAT Working Groupⁱⁱⁱ were identified through consultations and review of anti-trafficking interventions of recent years, and include: The critical intersections among international legal instruments to combat Trafficking in Persons; Impact evaluations of anti-trafficking efforts;

Preventing Trafficking in Persons by Addressing Demand; Addressing Vulnerabilities at points of destination and origin; Providing Effective Remedies for Trafficked Persons. ICAT policy series should provide an opportunity for partner organizations to coordinate and identify the key challenges in the fight against human trafficking, promoting common strategic priorities and fostering greater policy and programmatic coherence among all actors.

2. *The United Nations Global Initiative to Fight Trafficking in Persons (UN.GIFT)*

The Steering Committee Members of UN.GIFT (IOM, ILO, UNICEF, OHCHR, UNODC, OSCE) continue to implement joint, multi-stakeholder activities. UN.GIFT members developed a strategy for the years 2011-2015, which focuses on knowledge management, strategic support to all stakeholders and the development of a platform for global dialogue. The strategy foresees three principal components: 1) *Knowledge Management* for the anti-trafficking sector; 2) *Strategic Support* to stakeholders - Member States, regional organizations, civil society and the private sector; 3) establishment of a platform for *Global Dialogue* to engage with victims and survivors, inter- and non-governmental organizations, workers' and employers' organizations and the private sector^{iv}.

3. *The United Nations Voluntary Trust Fund for Victims of Trafficking in Persons*

The United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, especially women and children, was established in accordance with resolution A/RES/64/293, Article 38 of the General Assembly on 12 August 2010 as part of the United Nations Global Plan of Action to Combat Trafficking in Persons. The Trust Fund is currently supporting 12 frontline NGOs who provide victim-focused services - offering reintegration and rehabilitation services, providing income generation advice and legal support, and helping victims with psychosocial counselling and medical treatment.

4. *Cooperation with regional processes and organizations*

Examples of cooperation and partnership with regional processes and organizations include: (i) a Joint Plan of Action signed in September 2011 by the Organization for Security and Cooperation in Europe, which goal is to enhance common activities, such as Workshops addressing trafficking in persons and money laundering, bringing together experts in financial investigations and in trafficking in persons cases; (ii) cooperation between UNODC as Observer to the Bali Process and the Member States of the Process. UNODC is currently establishing a voluntary reporting system on migrant smuggling and a regional Coordination and Analysis Unit (CAU) to strengthen information and intelligence sharing, as requested by the Bali Process co-Chairs in 2011. The project's overall objective is to better inform policy development and implementation of adequate counter-measures to prevent and combat migrant smuggling. The CAU will produce regular reports providing strategic information on migrant smuggling within, through, from and to South-East Asia and East Asia based on information reported by States on migrant smuggling routes, methods used by smugglers, fees paid, and profiles of migrants and smugglers.

D. CHAIRING THE GLOBAL MIGRATION GROUP AND CONTRIBUTING TO THE GLOBAL FORUM ON MIGRATION AND DEVELOPMENT

UNODC is committed to its role within the Global Migration Group. Within its mandate and within its existing resources, UNODC has contributed to the GMG Joint Publications, and Joint Statements and has supported the Global Forum on Migration and Development as part of the Group. On the basis of this commitment, the Office is looking forward to its Chairing the Group in the second half of 2012. As Chair of the Global Migration Group, the Office will endeavour to

lead discussions which will benefit from the input of each and every Member of the Group and thus provide policy guidance to Member States.

The Thematic Discussion of the Twenty-first session of the Commission on Crime Prevention and Criminal Justice is on Violence against Migrants, Migrant Workers and their Families. In order to support Member States, UNODC prepared a Discussion Guide gathering information about all relevant international instruments. Aware of the different fora where the rights of migrants, migrant workers and their families are discussed, UNODC aimed to ensure that the direction of the Thematic Discussion would not lead to a duplication of efforts. The outcome of the Thematic Discussion will be shared with GMG Members to ensure coordination and cooperation. United Nations agencies are invited to attend the Twenty-first session of the Commission on Crime Prevention and Criminal Justice, 23-27 April 2012 and contribute to the debate. The outcome of the Debate will benefit the meeting of the Global Forum on Migration and Development, since implementing more efficient measures to combat violence against migrants, migrant workers and their families would have a positive impact on the contribution of migration to the development of migrants, communities and states.

ⁱ UNODC publications can be found at: www.unodc.org/unodc/en/human-trafficking/publications.html?ref=menuse

ⁱⁱ ICAT Members: OHCHR, UNDAW, DPKO, UNICRI, UNHCR, UNIFEM, UNFPA, UNAIDS, UNDP, UNICEF, UNODC, IOM, WHO, ILO, UNESCO, ICAO, ICPO-Interpol.

ⁱⁱⁱ The organizations forming the Working Group include ILO, IOM, OHCHR, UNICEF, UNHCR, UNODC and ICPO-Interpol. Participation to the Working Group is open to all ICAT members upon expression of interest.

^{iv} www.ungift.org