

PRESENTATION BY
THE UNITED NATIONS SPECIAL RAPPORTEUR ON TRAFFICKING
IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

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Regional conference on Strengthening the Criminal Justice Response to Trafficking in
Persons in South Eastern Europe – Combating Abuse of the Internet and Strengthening Cross
Border Intelligence Sharing

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**Excellences,
Distinguished Delegates
Ladies and Gentlemen,**

It is my pleasure to deliver this opening remark in my capacity as the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children. I welcome this Regional Conference on *strengthening the criminal justice response to trafficking in persons in South Eastern Europe – combating abuse of the internet and strengthening cross-border intelligence sharing* which provides an excellent opportunity to further engage in interactive discussions and share views on gains made in our collective quest to end human trafficking and the remaining challenges that needs to be addressed to stop the impunity of trafficking in persons.

Human trafficking, trafficking in human beings or trafficking in persons is unfortunately thriving and diversifying in today's world. Trafficking in persons remains one of the fastest growing criminal activities in the world, which results in serious breaches of human rights. Although, very difficult to quantify, it is hugely underestimated because of its insidious, complex and dynamic nature. Trafficking occurs within and across national borders, victims often transit through many countries to reach their final destination thus trafficking knows no border. This phenomenon poses an increasingly serious challenge to humanity. Girls, women, boys, men and persons with disability are trafficked every hour, every day within and across national boundaries for commercial sexual exploitation, for the purpose of labour exploitation, forced labour or services, begging, domestic work, slavery or practices similar to slavery, servitude and the removal of organs.

In the field of administration of criminal justice, while many States have made important progress in prosecuting and punishing traffickers, human rights of trafficked persons are often not the primary consideration in the pursuit of effective criminal justice responses to trafficking. Many challenges remain in terms of commitment and capacity in implementing a rights-based approach to prosecuting the crime of trafficking. In light of these concerns, my report to the Human Rights Council at its 20th session focused on a **human rights-based approach to the administration of criminal justice** in cases of trafficking in persons on the basis of an expert consultation on the questionnaire to Member States on criminal justice responses to trafficking in persons.

The report highlights the international legal framework and key components of a human rights-based approach in the prosecution of cases of human trafficking including the criminalization of trafficking offences, the non-criminalization of trafficked persons, the provision of protection and support for victim witnesses, the exercise of due diligence in the investigation and prosecution of cases, respect for the rights of suspects, the imposition of proportionate sanctions and penalties, efforts to address corruption and to seize assets, and international cooperation. States' efforts to end impunity for traffickers should include appropriate safeguards in the criminal justice responses that protect victims, witnesses and suspects, and integrate gender and age-based perspectives into investigations and prosecution. It is also important to enact clear and enforceable legal frameworks that are premised on respect for the human rights of trafficked persons.

Furthermore, trafficking now has many more faces, in my first-hand encounters with victims of this heinous crime, I listened to the tales of woes of women, men, girls and boys trafficked for domestic work, mining, agricultural work, fishing, sewing, but also for organized crimes and begging. The **Internet**

also expands the forms of exploitation for which persons are trafficked as signalled by the growth of child pornography on the Internet and the mail-order bride industry.

Increasingly I find very profound and compelling article 1 of the UN Protocol to prevent, suppress and punish trafficking in persons, especially women and children, which unequivocally and in an unusual fashion –atypical of international instruments put forward a statement of purpose for the Protocol articulated as follows:

-To prevent and combat trafficking in persons, paying particular attention to women and children;

-To protect and assist the victims of such trafficking, with full respect for their human rights; and

-To promote cooperation among States Parties in order to meet those objectives

The international community provided an important tool in the global fight against trafficking by adopting the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, in 2000 and which came into force 25December, 2003. As at today, 158 countries are State Parties to it. The UN Protocol to prevent, suppress and punish trafficking provides a solid international legal framework for the implementation of my global mandate alongside the various international human rights instruments and standards including resolutions of the UN Human Rights Council and the Office of the High Commissioner Recommended Principles and Guidelines on Human Rights and Human Trafficking.

As Special Rapporteur on trafficking in persons, especially women and children, the backbone of my work has been to advocate for a **human rights based approach** to combatting trafficking. Violations of human rights are both a cause and a consequence of trafficking in persons as rightly noted in the Principles and Guidelines on Human Trafficking and Human Rights developed by OHCHR. Thus, efforts to combat trafficking in persons will not be effective unless they are centered on universal respect for the human rights of all individuals, particularly trafficked persons and persons at risk of being trafficked. Victims of trafficking suffer grave violations of their fundamental rights; therefore it is crucial that any response to trafficking be constructed around the common goal of remedying such violations. I will never advocate enough for the formulation and implementation of anti-trafficking responses based on **5Ps** (protection, prosecution, punishment, prevention, promoting international cooperation and partnership), **3Rs** (redress, recovery and reintegration) and **3Cs** (capacity, cooperation and coordination), guided by international human rights law and standards.

The **Palermo protocol** should be the base for states to develop adequate tailored national legal frameworks insuring the protection of victims and the effective **prosecution** and **punishment** of traffickers. We have to make trading in human beings a high risk business and a zero profit one. One of our main challenges is not to allow the impunity of trafficking in persons to continue while ensuring the realization of the human rights of victims. States have the obligation before international human rights law and international humanitarian law to **protect victims** of human rights violations. However, this responsibility to protect often fails when it comes to trafficked persons because many victims are wrongly identified as undocumented migrants, detained and deported without neither the guarantee of safe return nor access to effective remedies. At

a time when undocumented migrants influx are growing stronger, it is crucial that States move from a national security paradigm to a human rights, victim centred approach in order to properly identify victims of trafficking and provide them with adequate protection and assistance in order to avoid re-victimization. To guide Member States in this regard, I made specific recommendations in my report on identification, protection of and assistance to victims of trafficking presented to the General Assembly at its 64th session in 2009.

In the exercise of my mandate I paid particular attention to **the right to effective remedies** for trafficked victims. Unfortunately, I have observed that adequate and effective remedies remain scarce and out of reach for trafficked persons, despite the egregious human rights violations they suffer. The right to effective remedies, which essentially entails **redress, recovery and reintegration**, is one of the fundamental guarantees under international human rights law. Article 6, paragraph 6 of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children expressly provides that “[e]ach State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered”. While the right to an effective remedy for victims of human rights violation is a well-established norm under international law, a wide gap in implementation remains vis-à-vis trafficked persons. In many States, trafficked persons are not provided with remedies as a matter of right, but only with ad hoc measures predominantly conditional on the victims’ cooperation with the investigation. Moreover, social assistance services where they exist are often underfunded and compensation is hardly ever provided.

In this respect, in my report to the Human Rights Council at its 17th session, I presented the draft **basic principles on the right to an effective**

remedy for trafficked persons. These basic principles are based on existing international human rights law and standards, and are designed to bring clarity to the concept of the right to an effective remedy and to elaborate on specific factors to be taken into account when this right is applied to trafficked persons. Taking note of my report, the Human Rights Council at its 20th session adopted Resolution 20/1 which among others, requests the Office of the High Commissioner to organize, in close cooperation with my mandate, consultations with States, regional intergovernmental bodies and organizations and the civil society on the draft basic principles on the right to effective remedy for trafficked persons. Six consultations have so far been held respectively in Geneva, Santiago, Bangkok , New York, Vienna and Abuja providing a venue for fruitful interactive dialogues with states and non-state actors including experts on trafficking. I will present a summary report at the end of these global consultations on the draft basic principles to the Human Right Council in June 2014.

Today more efforts are also needed with regard to **prevention**. Indeed, addressing the root causes that make people vulnerable to traffickers is necessary in order to fully suppress this practice. Awareness raising and empowerment through the realization of socio economic as well as civil and political rights could save many from falling in the traps of traffickers. Trafficking is a multi-faceted phenomenon which requires a multi-stakeholder coordinated response. Article 1 of the Protocol emphasizes on cooperation thus recognizing that meaningful progress could only be reached if we work together in a global partnership to end human trafficking. **Cooperation and partnership** are cross-cutting elements in all aspects of the efforts to combat trafficking in persons. At a time of deep global economic crisis, it is paramount that States work together, including in partnership with the private sector to address the

root causes of trafficking. Countries of origin and destination must work hand in hand to address push factors such as poverty, underdevelopment and lack of equal opportunities in order to prevent situation in which desperate people seek desperate and dangerous solutions. It is also important that States engage in discouraging demands that foster trafficking in persons.

In conclusion, allow me to once more stress that **cooperation and partnership** among all stakeholders are critical to fighting trafficking in persons. Trafficking in persons requires a multidisciplinary and multi-stakeholder response. Coordination is needed at the national, regional and international levels to better understand and respond to trafficking.

We must speak against human trafficking; collectively work to stop the trafficking and human enslavement. We must act, buy and consume services/products responsibly, demand accountability and promote and protect trafficked persons, ensuring in particular that their right to decent work and livelihood is not exploited by traffickers and their cohorts.

We must work together to stop the impunity for trafficking and guarantee non-repetition. For those whose journeys took them within the claws of criminals and were able to escape we need to guarantee access to justice without fear of reprisal, and provide them with a clear path to recovery and reintegration while protecting their privacy for a return to normalcy without fear of stigma. Today we are all gathered here to stand up against trafficking in human beings and importantly to remind one another that our work on human trafficking is far from being done until we free every enslaved person, until then we're not free ourselves.

Thank you for your attention and I look forward to a fruitful dialogue.