



**Office of the High Commissioner for Human Rights**

**Mandate of the Special Rapporteur on trafficking in persons, especially women and children**

**Preliminary Report  
Regional consultation on the right to an effective  
remedy for trafficked persons  
Santiago, 22 July 2013**

## Context

On 22 July 2013, the Special Rapporteur convened the regional consultation on the right to an effective remedy for trafficked persons with representatives of States from the Latin America and Caribbean group, experts and relevant stakeholders to solicit comments on the draft Basic Principles on the right to an effective remedy for trafficked persons (hereinafter referred to as draft Basic Principles). This regional consultation is the second of a series of consultation held in preparation of a report to be presented to the twenty-sixth session of the Human Rights Council pursuant to its resolution 20/1<sup>1</sup>. This regional consultation is part of a series of regional consultations convened by the Special Rapporteur to have a deeper discussion on the content of the draft Basic Principles.

In the exercise of her mandate, the Special Rapporteur has consistently advocated for the importance of the right to effective remedies for trafficked victims, given its crucial role in ensuring the recovery (rehabilitation) and reintegration of victims, as well as preventing re-victimisation. In her report to the Human Rights Council in 2011, the Special Rapporteur examined the conceptual basis of the right to an effective remedy in the context of trafficked victims and put forward recommendations to States on how they could fulfil their obligations to provide effective remedies to such victims<sup>2</sup>. In the same report, the Special Rapporteur presented to the Human Rights Council the “draft Basic Principles on the Right to an Effective Remedy for Trafficked Persons”, intended to provide States with useful guidance in operationalizing the right to an effective remedy. The above-mentioned report was informed by an expert consultation held in November 2010 in Bratislava, which brought together experts from academia, civil society, regional and international organizations and UN agencies to discuss possible ways and means of realizing the right to an effective remedy, focusing on the normative framework, content and scope of this right, as well as States’ responses and concrete strategies to implement it at the national level<sup>3</sup>. During the development of the thematic report the Special Rapporteur also sought stakeholders’ views through an online discussion forum held in February 2011. The Special Rapporteur also presented her thematic analysis on the realization of the right to effective remedies for trafficked victims and the draft Basic Principles to the UN General Assembly in 2011<sup>4</sup>.

Taking note of the reports of the Special Rapporteur, the Human Rights Council adopted Resolution 20/1<sup>5</sup> in June 2012, which among others, requests the Office of the High Commissioner for Human Rights (hereinafter OHCHR) to organize, in close cooperation with the Special Rapporteur on trafficking in persons, especially women and children, consultations with States, regional intergovernmental bodies and organizations and civil society on the draft basic principles on the right to effective remedy for trafficked persons, and to submit a summary thereon to the Human Rights Council at its twenty-sixth session in June 2014.

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<sup>1</sup> A/HRC/RES/20/1

<sup>2</sup> A/HRC/17/35

<sup>3</sup> A/HRC/17/35/Add.6

<sup>4</sup> A/66/283

<sup>5</sup> A/HRC/RES/20/1

## Introduction

Opening remarks were delivered by OHCHR Regional Representative for South America, Mr. Amerigo Incalcaterra, who stressed the importance of holding these regional consultations so as to reach a universal consensus on the draft Basic principles which represent a path toward **an institutionalized access to effective remedies for victims grounded in international law**. Mr. Incalcaterra further added that the suffering caused by trafficking in persons needed to be addressed within the framework of States' responsibility to protect which should manifest itself through access to a wide range of legal and social services contributing to the full recovery (rehabilitation) of victims and their reintegration in society. According to the OHCHR regional representative injuries cannot be uniquely tackled in financial terms, dissemination of truth and guarantees of non-repetition are crucial in fulfilling effective remedies. Trafficking is a phenomenon which does not spare the Latin America region where victims are often poor vulnerable women lured into migration on the basis of better job opportunities and who end up in abusive and exploitative labour conditions. Although some countries in the region have made efforts to address this plague, recommendations have been made by different human rights mechanisms to encourage and strengthen the measures already implemented by states in the region.

The Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, reiterated that trafficking affects the human rights of persons and that effective remedies were often inaccessible to trafficked persons. Despite the fact that the right to effective remedies is well established in international law, there remain wide gaps in implementation. In many places, rights are provided to victims as an element of criminal investigations, or contingently on cooperation with the investigation and this through ad-hoc measures. Victims rarely receive compensation and too often are deported back to countries of origin without being given a chance to seek remedies. Ms. Ezeilo reminded that the draft basic principles are grounded in international human rights standards and meant to bring clarity so as to help member States in devising adequate policies and laws to fulfil the human rights of victims. She further stressed that learning and sharing good practices and lessons learned from the region was part of the process of developing these basic principles.

The discussion was structured around two components: (1) the substantive components of the right to an effective remedy; and (2) the procedural components of the right to a remedy. Indeed, the right to an effective remedy entails both substantive and procedural obligations for States. International human rights standards clearly provide that States have the substantive obligations to provide for an effective remedy to victims of gross violations of international human rights law and serious violations of international humanitarian law including ensuring equal and effective access to justice and prompt and adequate reparation for harm suffered. According to these standards, reparation covers: restitution, including rehabilitation; compensation; satisfaction and guarantees of non-repetition.<sup>6</sup> The procedural obligations may be conceived as the range of measures needed to guarantee access to an effective remedy.

### Substantive components of the right to an effective remedy

At this session, presentations were made by experts on the existing international and regional legal frameworks on the right to an effective remedy; the

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<sup>6</sup> See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

content of rights and obligations in relation to effective remedies including the state responsibility to protect.

### **Rights and obligations in relation to effective remedies**

The Special Rapporteur highlighted that the right to an effective remedy is a human right recognized under international human rights law. State responsibility in cases of trafficking in persons, often committed by private individuals, criminal groups and networks, may arise “if the Government failed to take necessary measures to prevent the effects of the conduct of private parties”<sup>7</sup>. It was noted that under international human rights standards, States have the obligation to provide a remedy to victims of human rights violations committed within their territory and jurisdiction. While the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (hereinafter the Palermo Protocol), do not expressly guarantee the right to a remedy for trafficked persons, they do require States to establish procedures to provide access to compensation, and take measures that may form part of effective remedies. While most human rights treaties do not explicitly spell out the content of reparations, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law<sup>8</sup> (“Basic Principles and Guidelines on Remedy and Reparation”) elaborate on the various forms of reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The OHCHR Recommended Principles on Human Rights and Human Trafficking highlight that trafficked persons, as victims of human rights violations, have the right to adequate and appropriate remedies. Despite these provisions the right to effective remedy is often not recognized in national legal frameworks and where the law provides for it, it is hardly ever implemented. Where compensation is provided it is on an ad hoc basis, sometimes as part of the legal proceedings.

Looking at regional standards, the Chief of the Anti-Trafficking in Persons Section of the Organization of American States (OAS), Mr. Fernando García-Robles, made reference to the 1969 American Convention on Human Rights, adopted in San José, Costa Rica. The Convention, to which 23 States of the Americas are parties, provides an important base for the protection of victims. Article 25 stipulates that “everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights, recognized by the constitution or laws of the state concerned of by the Convention, even though such violation may have been committed by persons acting in the course of their official duties”. The article further calls upon State Parties to: “a) ensure that any persons claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the State; b) develop the possibilities of judicial remedy; and c) ensure that the competent authorities shall enforce such remedies when granted.” These dispositions provide for redress and compensation for victims while promoting the adoption of specific national legal provisions to insure victims ‘rights.

Additionally in June 2010, the OAS Member States adopted the Work Plan Against Trafficking in Persons in the Western Hemisphere through Resolution AG/RES 2551 (XL-O/10). This non-binding document sets guidelines to help states fulfil their obligation to provide restitution, recovery (rehabilitation), compensation,

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<sup>7</sup> A/56/10, para. 77 (Draft articles on responsibility of States for internationally wrongful acts, general commentary, part one, chap. II, para. 4).

<sup>8</sup> General Assembly resolution A/ 60/147

satisfaction, and guarantees of non-repetition to victims. Under section 3 of the Work plan's guidelines on protection, OAS Member States are suggested to:

- ❖ Take appropriate measures...to assist and protect national and foreign victims of trafficking in persons and/or witnesses, family members, protecting their identity and privacy;
- ❖ collaborate with civil society and private enterprise, create jobs, educational and vocational support programs for victims of trafficking and vulnerable individuals;
- ❖ Ensure that victims are informed about protection and other services (consular services) available to them, in a language they can understand;
- ❖ Ensure that personnel with whom a victim comes into contact, among others, law enforcement, labour inspectors, social workers, health personnel, representatives of civil society, have been trained in identifying and assisting victims;
- ❖ Develop policies and programs to protect victims of trafficking in persons based on respect for human rights, taking into account gender, age, health, etc;
- ❖ Adopt policies to ensure that victims of trafficking in persons with an irregular immigration status are offered access to victim protection;
- ❖ Adopt special protective measures, with the participation of civil society, to provide for the safety and care of child victims;

These provisions should guide the development of exhaustive and comprehensive laws and policies in order to realize effective remedies for victims. It is crucial to address the push factors which make victims of trafficking vulnerable and easy targets for traffickers. In that sense cooperation among States is important and remains a determining factor in insuring non-repetition. Mr. Garcia Robles underscored the main challenges to the realization of the right to effective remedies for victims of trafficking in the Americas including: the biased focused on sexual exploitation leading to the invisibility of those trafficked for labour exploitation, the lack of adequate institutionalized procedures for the compensation of victims, the impact of discrimination on victims' access to justice but also the perpetuation of some cultural practices which foster trafficking and labour exploitation especially in Domestic work. He further stressed the need to have coordinated institutionalized efforts among the different national institutions involved in assisting victims.

Mr. Pablo de la Vega, Regional Coordinator of the Inter-American Platform for Human Rights, Democracy and Development focused on the state's obligation to protect regardless of the victims immigration status. He stressed the need to shift the paradigm used to tackle the crime of trafficking of migrants from a national security approach to a human rights and victim centred approach. Mr de la Vega further expressed the need to expand the protection of victims to immediate relatives as well as those providing support to victims. In some instances networks of traffickers have used pressure and threats on victims' families in order to prevent them from escaping the situation of exploitation and cooperating with law enforcement authorities. Social workers have also been targeted by organized crime networks while rescuing and assisting victims. Protection of intimacy is also crucial in ensuring victims' right to privacy which may play a role in their recovery (rehabilitation) by avoiding stigmatization and living in fear. Indeed under article 6 of the Palermo Protocol, there is a requirement that States protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential. The issue of the language barrier was recognized as a real obstacle to the effective realization of equal access to justice for those victims originating from minority groups or from countries outside the region.

## Redress

Mr. Francisco Maldonado, Professor in Criminal law and Deputy Head of the Centre for Criminal Law Studies at the University of Talca, provided insights on the conceptualization of the redress component. He highlighted that efforts made to conceptualize criminal prosecutions have been weak. He underscored that states have the tendency to cut and paste the Palermo Protocol while transposing it but do not consider how the offense of trafficking fits within their own national legal framework which in turn may lead to impunity. Emphasis was made on the need to develop tailored criminal laws to punish the crime of trafficking and all forms of exploitations linked to trafficking with the aim to adapt or bridge the existing gaps in national legal frameworks. The offence of trafficking was presented as a dichotomous crime split into a) the offence of placing the individual far from access to its social safety network (transfer) and b) the offence of placing the individual in a situation of need favouring exploitation. According to Mr. Maldonado these two dimensions should be punished separately. Mr. Maldonado stressed that, for example, although prostitution is not criminalized in some countries, individuals trafficking people for the purpose of sexual exploitation should be charged with a trafficking offence, a labour exploitation offence but also for pimping. It is necessary to conceptualize the crime of trafficking as a multi-faceted crime, often inscribed within the framework of organized criminal networks leading to multiple violations for which concrete dedicated criminal provisions are needed.

Ms. Rosyline Borland, Regional specialist on migrant rights and the rights of vulnerable groups at the International Organization for Migration (IOM) stressed that a comprehensive, rights-based and victim-centred protection system is a precondition to realizing the right to effective remedy for trafficked persons. IOM works on trafficking in partnering with governments and civil society organizations with the main aim to bridge existing gaps in governments' assistance to victims. IOM runs a global fund for the voluntary return and reintegration of victims of trafficking; the organization assisted 6,500 victims of trafficking in 2012 alone. 42% of those assisted were men or boys, 45% of the victims were in situation of labour exploitation while 20% suffered sexual exploitation. These figures show that the focus of the responses to trafficking is often biased towards women and girls victims of sexual exploitation leaving behind a significantly increasing number of male victims of trafficking for the purpose of labour exploitation which might subsequently affect their access to effective remedies. It is important to accurately identify presumed victims, and provide them with immediate protection before; during and after the investigation and prosecution phases should they choose to be involved in these legal proceedings. Migrant smuggling and trafficking in human beings are cross cutting issues, therefore in order to effectively ensure the protection of all victims it is crucial that states refrain from criminalizing those victims who are undocumented migrants as a result of their exploitative situations or who have been involved in criminal activities because coerced by their traffickers. The Special Rapporteur has often recalled that the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking<sup>9</sup> state that trafficked victims shall not be detained, charged or prosecuted for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.

Ms. Borland further underlined that the immigration status of victims often impact their ability to remain in the country through the assistance programs. It is important that undocumented migrants have access to specialized assistance in realizing their right to an effective remedy. The absence of institutionalized compensation ensuring victims' financial independence is a serious obstacle. Once more emphasis was made on the often inadequate or lack of access to legal

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<sup>9</sup> (E/2002/68/Add.1)

assistance especially in the language spoken by victims which constitutes a barrier to the realization of redress for victims.

### **Restitution and Recovery (Rehabilitation)**

Ms. Borland also stressed that even after completion of the recovery (rehabilitation) phase, victims can sometime become vulnerable and need to have access to the programs if needed. Reintegration measures should also include family mediations as sometimes families are involved in trafficking their relatives especially women and girls. Moreover, it is also important to address the social dimension of the reintegration within the community of origin where stigmatization of victims can jeopardize effective reinsertion. In this sense, raising awareness is vital as well as building the capacities of the communities hosting the victims so as to avoid re-victimization. Effective and sustainable recovery requires a comprehensive range of services including addressing the root causes or push factors in countries of origin.

Mr Guevara, from the UN Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) further underscored that with regard to recovery (rehabilitation), victims should be allowed to have a stay permit whether or not they choose to cooperate with judicial authorities. They should also be granted the right to safe return should they choose this option. It is important that the regularization of a victim's immigration status through the transfer of a humanitarian stay permit into a permanent residency permit does not affect the status of the individual as a victim. In Costa Rica, ILANUD and the National Coalition against Migrant Smuggling and Trafficking in Persons (CONATT) Law Enforcement Committee sustained that individuals should not lose their status as victims of trafficking because: ( 1 ) the legal status is attributed due to the actual characteristics of the person and ( 2 ) the victim again may require institutional support and access to judicial protection should the threat of further violation arise.

Furthermore, Ms. Honisch, Under-secretary, Office of the Prosecutor on Human Trafficking and Extortive Sequestration discussed the need for victims to have access to the labour market for an effective reinsertion into society. Indeed it is important for victims to recover financial and economic autonomy which will empower them and protect them from falling into situations of vulnerability. This could be achieved through access to vocational training programs but also by involving private actors and businesses to provide jobs opportunity to these victims.

In this connection, Mr. Juan Miguel Petit, Human Rights Advisor, (former UN Special Rapporteur on the sale of children), United Nations Country Office, Uruguay stressed the need for integral assistance programs including long term support which should cover all aspects of the rights that have been violated. It is important to develop public policies with human rights perspectives. Trafficking in persons violates many fundamental rights therefore the remedies have to be comprehensive and long term oriented to insure full recovery (rehabilitation).

### **Compensation**

Compensation as mentioned by the Special Rapporteur remains one of the weakest links in fulfilling the right of victims to access effective remedies. Ms. Borland underlined that the judicial path to compensation can be problematic, as the legal proceedings are often lengthy due to their dual nature: criminal proceedings for redress and civil proceeding for compensation. Because exploitation often happens in unregulated informal sectors without work contracts it is also very difficult for victims to bring labour cases before civil courts for unpaid wages. Moreover, the victims' immigration status should neither affect access to civil proceedings and compensation nor affect the level of the compensation received even if activities were conducted in informal and unregulated sectors. However, positive experiences to build upon have been witnessed in some regions where several victims of trafficking received compensation. Ms. Paula Honisch

further added on the question of compensation by sharing a good practice from Argentina whereby the traffickers' assets are seized and forfeited to fund compensation for their victims. In addition, Argentina new legal provisions on domestic work, prohibiting child work and protecting the work of adolescents and those working in agriculture provide for compensation in cases of labour exploitation. However, in Argentina as in other parts of the region because sexual services are not considered as work it is difficult for labour courts to provide compensation for those exploited in this sector.

Ms. Borland also identified the absence of 'portable justice' as an obstacle to compensation as victims who often choose the option of voluntary repatriation no longer have access to justice once in their country of origin. Therefore, bilateral cooperation between countries of destination and origin, especially on legal proceedings, should be enhanced allowing victims to realize their right to redress and compensation even when they leave the country in which the exploitation occurred. The option of videotaped hearings that has been implemented in some countries could be a tool to facilitate remote access to justice and compensation in addition to being a protective measure for victims.

A systematized alternative to fund anti-trafficking programs was developed in Costa Rica with the establishment of a National Fund against Trafficking in Persons and Migrants Smuggling, which is financed by a 1 USD airport tax on all departures. The fund is entirely dedicated to finance projects aimed at preventing and prosecuting trafficking as well as assisting victims. This model could be expanded to provide necessary compensation to victims of trafficking.

## **Procedural preconditions in realizing the right to effective remedies**

At this session, the panellists made presentations on the implementation of the right to an effective remedy for trafficked persons, focusing on both substantive and the procedural components of this right. As the Special Rapporteur indicated the right to a remedy encompasses not only a substantive right to reparations, but also a set of procedural rights necessary to facilitate access to reparations.<sup>10</sup>

She underlined that to have access to remedies, victims of trafficking must be guaranteed a set of ancillary rights including the provision of legal information, medical, psychological, social, administrative and any other necessary assistance. The Special Rapporteur underlined that the timely provision of information to trafficked persons in a language and format that they understand remains a challenge. As judicial and administrative proceedings are often complex in many jurisdictions, legal assistance is essential to enable trafficked persons to claim compensation. Free legal assistance as provided by the Palermo Protocol<sup>11</sup> is still not available in many countries. Often, legal assistance may only be available from non-governmental or international organizations. Furthermore, some States impose eligibility criteria for legal aid, which may be difficult for trafficked persons to meet. Moreover, the ability of trafficked persons to claim remedies hinges upon the possibility to remain in countries where remedies are sought. Trafficked persons are often misidentified as irregular migrants and detained in immigration detention centres, or immediately deported without being given any opportunity to seek compensation. The Special Rapporteur recommended that, following a reflection and recovery (rehabilitation) period, trafficked persons should be provided with temporary or permanent residence status in the country where remedies are sought

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<sup>10</sup> See Human Rights Committee, general comment No. 20 (1992), para. 14. as well as A/HRC/17/35 and A/66/283

<sup>11</sup> Palermo Protocol, para 1, 2 and art. 6, para. 3 (b)

for the duration of any criminal, civil or administrative proceedings. Secondly, such residence status should be granted on social or humanitarian grounds, including when there is a lack of guarantees for safe and secure return, the fear of reprisals and retaliation by traffickers, the risk of being re-trafficked, or the return is otherwise not in the best interests of the trafficked person.

Mr. Alejandro Guevara insisted on the fact that both procedural and institutional measures are needed to make real improvement in realizing the right to an effective remedy. Mr. Guevara shared information on reforms undertaken in Costa Rica where the National Coalition against Migrant Smuggling and Trafficking in Persons (CONATT) has had a real impact on victims' access to remedies. CONATT has been mandated by law to promote the comprehensive fight against trafficking and coordinate the institutional response for the protection and the short and medium-term assistance to victims of trafficking and their families. The coalition is constituted of 21 governmental institutions who are voting members but also allows the participation of NGOs and IGOs as observers. It is organized into five standing committees including an immediate response team. These committees coordinate the efforts of the different state bodies (including Public Ministries and Judicial authorities) involved in the fight against trafficking. The committees cover a wide range of activities including: prevention and support to victims, law enforcement, information, analysis and investigation.

In the first contact with the victims it is important to have an institutionalized process bringing together specialized and trained representatives of the institutions in charge of assisting victims of trafficking in order to avoid causing further violations of human rights. The process should involve representatives of the agencies responsible for migrations and border control; representatives of the judicial police responsible to transmit the case to judicial authorities, representatives of the Attorney General office, representatives of the Public Prosecutor's office and representatives of the institution in charge of providing the first support and assistance to victims. The immediate response team should be entrusted with the preliminary identification of potential victims. Indeed, it is preferable that cases of trafficking are not handled through the conventional channels of migration authorities because immigration agents might not have been trained on the subject. There is also a risk of delayed assistance to victims because of lengthy processing time, and a risk of reprisals and intimidation of victims including by traffickers who are often with the victims while crossing borders. The response team should also be in charge of providing non conditional assistance to victims and accompany them on the path to redress and recovery by providing adequate judicial information during the reflection period without pressuring them into engaging in judicial proceedings. It is preferable to have a centralized and coordinated multi-disciplinary and multi-stakeholder support mechanism to victims under the responsibility of a public ministry rather than law enforcement and judicial authorities involved in the fight against trafficking.

Ms. Denisse Araya Castelli, Executive Director, NGO Raices, stressed the importance of having national coordinated strategies to promote access to remedies by the different institutions as this must be seen as a shared responsibility. Coordination is crucial in order to avoid disorganization, repetition and waste of resources which negatively impact victim's effective access to remedies. It is equally important to build the capacities of the professionals in charge of providing social assistance to victims. They should receive specialized training to cater to this category of victims of grave violations. It is also important that the training incorporate a gender and cultural perspective so as to limit the potential for discrimination especially when the victims are foreigners or from minority groups. Provided that the phenomenon of trafficking is dynamic and evolving the training should be continuous, renewed and adapted.

Mr Guevara stressed that it is important to sensitize judges and prosecutors on the crime of trafficking and inform them on the human rights based approach to

granting appropriate redress and compensation to victims. The judicial proceedings should take into account the fragile situation of the victims and provide alternatives for the protection of victims during court hearings.

## **Overview of the Discussion**

All states representatives welcomed the draft Basic Principles which they perceive as a good initiative and a tool providing guidance to the development of national legal provisions to fulfil the rights of victims of Trafficking. Representatives briefly informed on the situation in their countries and shared good practices and remaining challenges with regard to providing remedies to victims.

It was noted that the Palermo Protocol provides an important basis for combating human trafficking and that States have to use it as a floor upon which to build their national legislation while taking into account the specific trends and manifestations of the phenomenon of trafficking within their national boundaries. The representative from Jamaica mentioned that the newest national legal provisions on trafficking in her country, takes into account new trends such as trafficking for the purpose of organ removal. All representatives acknowledged State responsibility to protect victims and the need for a multi-sectorial and multi-stakeholders approach to assisting victims of trafficking.

States also recognized the need to obtain victims' informed consent to initiate legal proceedings. Some States informed that their legal provisions provide for the protection of victims of trafficking regardless of their immigration status notably through the provision of non-conditional humanitarian stay permits. On the other hand, mentions was made to the potential conflict between the concept of a reflection period and national legal provisions requiring the State to investigate and prosecute all reported crimes. Therefore, a better definition and specification of the reflection period was requested.

States recognized the need for capacity building in order to better identify and support victims and suggested that the Basic Principles specifically details the training of law enforcement officers as well as judges and lawyers.

Suggestions were made to have a reflection on effective investigation protocols that will not require the involvement of victims but allow for the effective and systematic prosecution of traffickers so as to ensure redress and non-repetition.

A number of delegations emphasized the need to address the root causes, the push factors which drive trafficked victims in the hands of their traffickers and stress the need to also emphasize the responsibilities of countries of origin.

In her closing remarks, the Special Rapporteur informed that the summary report of the regional consultations would be submitted to the twentieth-sixth session of the Human Rights Council, and underlined the importance of receiving inputs and suggestions on the draft Basic Principles from Member States.

## Agenda

### **Regional Consultation on the Right to an Effective Remedy For Trafficked Persons**

Monday, 22 July 2013, **09.30-16.30**

Building of the Economic Commission for Latin America and the Caribbean (ECLAC)  
Enrique V. Iglesias Auditorium, Av Dag. Hammarskjold 3477, Vitacura - Santiago

- 09.30-10.00           **Registration**
- 10.00-10.25           **Introduction**
- Opening remarks:* Mr. Amerigo Incalcaterra, OHCHR Regional Representative for South America
- Introduction and objectives to the consultation*  
Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons, especially women and children
- 10.25-10.45           **Draft Basic Principles on the right to an effective remedy for trafficked persons: - Substantive components of the right to an effective remedy**
- Overview of the international legal framework on the right to an effective remedy**
- Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons, especially women and children
- 10.45-11.00           *Coffee Break*
- 11.00-13.00           **Rights and obligations in relation to effective remedies**
- Ms Rosyline Borland, Regional specialist on migrant rights and the rights of vulnerable groups, IOM*
- Mr. Pablo de la Vega, Regional Coordinator Inter-American Platform for Human Rights, Democracy and Development (NGO)*
- Avenues for seeking redress/remedies in the existing criminal law framework**
- Mr. Francisco Maldonado Professor in Criminal law and deputy head, Centre for Criminal Law Studies University of Talca
- Regional frameworks and initiatives**  
*Fernando García-Robles, Chief Anti-Trafficking in Persons Section of the OAS*
- Discussion***
- 13.00-14.00           *Lunch*

- 14.00-15.15      **Draft Basic Principles on the right to an effective remedy for trafficked persons: Procedural components of the right to a remedy; restitution, recovery and compensation**
- Procedural preconditions in realizing the right to effective remedies*
- Alejandro Guevara, UN Latin American Institute for the Prevention of Crime and the Treatment of Offenders, ILANUD*
- Restitution and Recovery(Rehabilitation)*
- Denisse Araya Castelli, Executive Director, NGO Raices*
- Reparation and Compensation*
- Mr. Juan Miguel Petit, UN Human Rights Advisor, Uruguay, former UN Special Rapporteur on the sale of children*
- Paula Honisch, Under-secretary, Office of the Prosecutor on Human Trafficking and Extortive Sequestration*
- Discussion***
- 15.15-16.00      **Conclusions and recommendations**  
*Wrap-up discussion*
- 16.00-16.30      **Closing remarks followed by a Mingling coffee**  
*Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons, especially women and children*

**The working language of the meeting will be English and Spanish with simultaneous interpretation in English and Spanish.**