



Summary Report

Consultation on the role of regional and sub-regional mechanisms in international efforts to counter trafficking in persons, especially in women and children convened by the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo

Introduction

The consultation on “the role of regional and sub-regional mechanisms in international efforts to counter trafficking in persons, especially in women and children” was held in Dakar, Senegal, on 4 and 5 October 2010 and focused on effective ways of tackling trafficking in persons at the regional and sub-regional level through collaborative, innovative and human rights-based approaches.

Convened at the initiative of the Special Rapporteur¹, the consultation provided the first opportunity for technical experts from nine regional mechanisms representing all five of the world’s continents to come together to share current trends, good practices, challenges and lessons learned with their counterparts from other regions as well as with the Special Rapporteur and United Nations observers.²

At the consultation a forward-looking approach was adopted, building on the recommendations of the Special Rapporteur’s 2010 report to the UN Human Rights Council, on the theme of regional and sub-regional action to counter trafficking in persons³. This facilitated not only sharing of practical experiences and lessons learned, but also discussion of possible ways forward in further strengthening the contribution of regional mechanisms to the global response to trafficking in persons in a way that that is both effective and serves to promote and protect the human rights of trafficked persons. In this regard, all participating experts expressed the wish and the will to continue to engage with each other, with the UN system and with other stakeholders including civil society to promote and protect the human rights of trafficked persons.

Context

The Special Rapporteur has long maintained that in order to effectively address the serious challenge to humanity posed by the phenomenon of trafficking in persons, better cooperation among countries of origin, transit and destination is required. In this regard, she has notably stressed her conviction that “regional and sub-regional mechanisms play a key role in

¹ The consultation was organised by the Office of the High Commissioner for Human Rights in collaboration with its West Africa Regional Office.

² See List of Participating Organisations on <http://www2.ohchr.org/english/issues/trafficking/consultations.htm>.

³ A/HRC/14/32, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, on Regional and sub-regional cooperation in promoting a human rights-based approach to combating trafficking in persons, 4 May 2010.

providing a response that is both multilateral and sufficiently close to countries' realities and the specificities within a certain region."⁴

She has equally stressed the vital importance of adopting a victim-centred, human rights-based approach in any efforts aimed at tackling trafficking in persons, and has repeatedly highlighted the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking⁵ as providing a reference point in this regard for States and other actors.

It was against this background that the Special Rapporteur convened the present consultation, in recognition of the unique position of regional mechanisms at the interface of international action and local realities, and having noted in her above-mentioned report to the Human Rights Council an extraordinary number of encouraging and innovative anti-trafficking initiatives taken by regional mechanisms but also a number of areas of concern requiring attention.

Overview of Discussions

The consultation was officially opened by the Minister of Human Rights of Senegal, Ms. Coumba Gaye, who highlighted some of the national efforts to curb the trafficking phenomenon in Senegal including in cooperation with other countries in West Africa.

The agenda of the consultation⁶ was formulated to revolve around issues that were both of vital importance from a human rights point of view, but also on which the role of regional mechanisms appeared to be particularly pertinent.

Discussions addressed: the normative and institutional frameworks adopted by regional and sub-regional systems to support anti-trafficking work; regional perspectives on the prevention of trafficking and the protection of trafficked persons; and innovative forms of cooperation and partnership between regional mechanisms and between these and other stakeholders, with a particular focus on how regional mechanisms might complement and add value to efforts being made at international, national and local levels.

Normative and institutional frameworks

After an introductory presentation⁷ by the Special Rapporteur framing the discussions within the perspective of a **human rights-based approach to tackling trafficking in persons**, participants presented how their respective mechanisms had sought to integrate such an approach in their work, through **normative instruments, institutional arrangements, work plans and programmes**.

These presentations included a number of structures and initiatives that had been recently launched in various regions⁸. Regarding the African region, the ongoing process (AU.COMMIT) of launching regional workshops on operationalising the African Union Ouagadougou Action Plan and a corresponding monitoring and evaluation tool in each of the African sub-regions was explained. At the African sub-regional level, a number of policy initiatives to complement those at the African Union level were explained, including the Economic Community of West African States (ECOWAS) Plan of action against trafficking in persons (2008-2011), the recently adopted ECOWAS Policy on protection and assistance to victims, the soon-to-be-launched ECOWAS standard operating procedures for the protection of

⁴ A.HRC/14/32, Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Joy Ngozi Ezeilo to the Human Rights Council, 4 May 2010, p. 3

⁵ See Principles and Guidelines at <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

⁶ See Agenda at <http://www2.ohchr.org/english/issues/trafficking/consultations.htm>

⁷ See Presentations at: <http://www2.ohchr.org/english/issues/trafficking/consultations.htm>

⁸ More detailed information on this may be found in the document 'Summary of Regional and Sub-Regional Structures and Initiatives to Counter Trafficking in Persons' at: http://www2.ohchr.org/english/issues/trafficking/Dakar_consultation_oct2010.htm

trafficked persons and the joint plan of action between ECOWAS and the Economic Community for Central African States (ECCAS).

Regarding the European region, the mechanism recently established to evaluate the implementation of the Council of Europe's anti-trafficking Convention, was described. Consisting of a technical pillar (a group of experts known as GRETA) and a political pillar (through the Committee of the Parties) this procedure was described notably as providing for information-gathering visits by GRETA to countries having ratified the Convention, although the group had yet to conduct its first such country visit.⁹ Regarding the European Union (EU) sub-region, a presentation was made on the main framework that is to govern the future anti-trafficking work of the EU. This framework, it was noted, would consist of legislation through a 'Directive on preventing and combating Trafficking in Human Beings and protecting Victims',¹⁰ and a Strategy on fighting trafficking in human beings. Once adopted, these instruments will replace those currently in force, namely the 2002 'Council Framework Decision on Combating Trafficking in Human Beings' and the 2005-2010 Action Plan respectively. Plans to appoint an EU Anti-Trafficking Coordinator and to launch a website intended to serve as a one stop shop for anti-trafficking practitioners were also presented.¹¹

In the Middle East and North Africa region, the regional work plan 'Arab Initiative to combat Trafficking in Persons' launched by the League of Arab States in March 2010 was described, along with plans to establish a unit to monitor the phenomenon of trafficking in this region and to serve as a hub for the exchange of information and experiences. Regarding the Americas region, the 2010-2012 'Work Plan against trafficking in the Western Hemisphere' adopted by the Member States of the Organization of American States in June 2010 was described, along with trends and routes, accomplishments, and challenges faced by the countries of the Americas in preventing and combating trafficking in persons.

During the ensuing discussions, participants were invited to identify early lessons that might be drawn from the establishment of regional monitoring mechanisms and their features and to discuss the extent to which it might be possible to assess the impact of regional and sub-regional action plans, as well as any methods that had proven to be effective in conducting such assessments.

Representatives from the different regional mechanisms engaged closely with the concept of a human rights-based approach in relation to trafficking in persons and with how such an approach could be translated into practice. It was agreed that human rights – and their progressive realization – needed to be at the centre of efforts to tackle trafficking in persons if such efforts were to be effective in the long-term.

Joint political commitment (as expressed e.g. through a non-binding Memorandum of Understanding) to cooperate and coordinate in good faith and towards jointly agreed goals and the collective transmission of strong and unified messages were highlighted as being of utmost importance in preparing the ground for concrete actions.

⁹ GRETA has since the consultation conducted its first three country visits, to Cyprus (in October 2010), the Slovak Republic and Austria (both in November 2010).

¹⁰ An amended version of the draft Directive was adopted through a vote of the European Parliament on 14 December 2010 resulting in 643 votes in favour, 10 against and 14 abstentions. The Directive will be legally binding on EU member states, except the United Kingdom and Denmark in accordance with the Protocol (N^o 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and the Protocol (N^o 22) on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union (Lisbon Treaty). For the final text, see <http://www.europarl.europa.eu/oeil/file.jsp?id=5849482>

¹¹ An EU Anti-trafficking coordinator has since been appointed, and the website launched. See: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1763&format=HTML&aged=0&language=EN&guiLanguage=en>.

Prevention

In the area of prevention, participants agreed that continued efforts were needed to clarify definitions and terminologies around trafficking, both among States and within society at large. Examples were mentioned of failures by State agents to react appropriately to trafficking cases due to a lack of such understanding and corresponding failures among members of civil society to exercise the necessary vigilance due to lack of understanding or acknowledgement of the risks associated with trafficking. Societal attitudes, such as those adopted towards children, men, women, or certain categories of workers were raised as issues needing to be addressed in this regard. Participants also stressed the need to include the perspective of those closest to local realities, and notably that of trafficked persons themselves, in formulating effective and appropriate responses in the area of prevention and other areas. In this regard, a need was identified also to recognize the heterogeneity of trafficked persons, including in terms of their wishes, and to resist one-size-fits-all solutions.

Participants were also encouraged to discuss whether and how regional mechanisms might contribute to promoting safer migration avenues as a trafficking prevention measure. In this regard, a presentation was made describing a project launched by the African Union Commission (AUC) and the European Commission (EC) to facilitate dialogue around the Africa-EU Partnership on Migration, Mobility and Employment (MME), which aims at “comprehensive responses to migration and employment challenges with a focus on creating more and better jobs for Africa and facilitating mobility and free movement of people in Africa and the EU and better managing legal migration between the two continents.”¹² The project, which is implemented by a consortium of three organisations¹³ under the supervision and guidance of a Steering Committee led by the AUC and EC, foresees a number of concrete initiatives in both trafficking- and migration related areas. Planned initiatives described in relation to prevention of trafficking include: the establishment of an African Remittances Institute; the organisation of regional and sub-regional multi-stakeholder fora on employment, social protection and labour migration; and the creation of an observatory on migration through a network of research centres and independent researchers to produce reliable and harmonised data on migration.

Participants highlighted a number of good practices in the field of prevention. These included conducting monitoring and evaluation research using models and methodologies that have proven to be effective in other fields, such as sentinel surveillance techniques employed in public health programmes. The practice, among several regional mechanisms, to continually integrate research findings into prevention programmes with a view to formulating more appropriate, nuanced and targeted prevention messages was mentioned as another potentially effective strategy.

A number of important lessons learned emerged from this session. It was noted, for example, that before deciding how to tackle the varying manifestations of the problem of trafficking in persons in a particular context, it is necessary to form a clear picture of its nature, scope and causes, including push and pull factors. In this respect, experiences shared appeared to point to a continuing need for a more nuanced understanding of the problem and related trends, as exemplified by a study conducted in the Greater Mekong region indicating that contrary to the assumptions of some prevention programmes, increased levels of income and education in some cases resulted in a higher rather than lower risk of being trafficked. Other lessons learned identified include the following:

¹² See http://www.africa-eu-partnership.org/partnerships/items/migration_en.htm

¹³ International Centre for Migration Policy Development (ICMPD), International and Ibero-American Foundation for Administration and Public Policies (FIIAPP) and African Institute for Economic Development and Planning (IDEP)

There is a continuing need to refine and better target the messages conveyed through prevention campaigns, including through the use of impact assessments and research focused on how different levels of society (family, peers, wider society) influence choices leading to increased vulnerability to being trafficked. Education at all levels, including factual information on the conditions facing migrant workers, should be explicitly recognised as a prevention measure.

There is also a need to identify in each region the structure best placed to coordinate and/or conduct the research needed to inform policies and interventions within the region and follow up to ensure that findings are translated into concrete action. In this regard it was recognised that the most effective solution may vary between contexts (possibilities identified in this regard included: regional mechanism secretariats performing this function themselves; cooperation with civil society and academic institutions; and the setting up of regional observatories).

Protocols allowing for freedom of movement within regions may contribute to preventing trafficking, provided that they are fully implemented and that there is recognition that such arrangements cannot in themselves prevent all forms of trafficking.

Protection

In the area of protection, it was recognised that the role of regional mechanisms was relatively limited, consisting primarily of standard development, monitoring the implementation of member states' obligations under regional instruments and developing tools and analyses to support member states in this regard.

During the discussions at this session participants identified and evaluated measures that could be taken to promote and/or consolidate the elaboration and promotion of tools designed to increase the protection of trafficked persons and the relevance of such tools across regions and contexts.¹⁴ The role that regional mechanisms might play in strengthening practical cooperation for protection, notably with and among providers of support and services to trafficked persons was also discussed. Participants also addressed ways in which regional mechanisms could ensure that trafficked women are not stigmatized through awareness-raising activities or measures to promote safe migration and that the views of trafficked persons, including children, were taken into account in anti-trafficking policies and programmes.

A number of good practices were identified during these discussions. Among these, efforts to mainstream gender-sensitive and child-centered approaches at regional and national levels, in full recognition of equality before the law and the prohibition of discrimination, were underlined as crucial in anti-trafficking work. In addition, it was noted that the 'best interests of the child', as a well-established human rights principle, should be taken into account in any action concerning presumed trafficked children. The need to apply the concept of a 'presumed trafficked person' as a way to counteract the well-documented difficulties involved in systematic identification of trafficked persons was also noted. .

Cooperation and partnerships

In the area of cooperation and partnerships, participants stressed that a pre-requisite to effective wider cooperation was effective coordination at the national and regional levels through structures such as focal points, rapporteurs or coordinators. It was further noted that for such coordination functions to be exercised effectively at the regional level, regional mechanisms needed to be equipped with a certain level of authority vis-à-vis States, such as for example being able to issue compulsory requests for information. One participant highlighted in this

¹⁴ For a draft compendium of tools developed at the regional level, see <http://www2.ohchr.org/english/issues/trafficking/consultations.htm>

regard the difficulty of effectively monitoring the practices of, and collecting accurate data from, member states when they did not submit the required reports, or failed to use standardised formats to document their activities.

Participants highlighted the role of civil society and other actors, including parliamentary bodies, in providing input into, and following up on the recommendations made to States by regional mechanisms. In this regard, it was noted that regional mechanisms needed to coordinate among themselves and with other actors both to ensure optimal use of limited resources and to avoid overlapping and contradictory messages that could lead to ‘monitoring fatigue’ or ‘standard-shopping’ among States. To this end, participants stressed the need for enhanced coordination and recognition of complementarities among all stakeholders and for networks through which the designated focal points of the different regional mechanisms could share information and experiences.

A number of good practices were identified in the area of cooperation and partnership. The need to involve all relevant sectors of government at the appropriate level and civil society, including community-based organizations, as well as the private sector, in anti-trafficking interventions was especially noted. Effective and meaningful participation of all categories of trafficked persons, a well-established human rights principle, was highlighted as crucial in determining both general policy and individual cases. Regular consultation of civil society organisations on policies and strategies alongside any involvement of such organisations in implementation was also recognised as generally valuable to regional mechanisms. Also noted was the need to strengthen practical cooperation with civil society organisations and UN agencies with respect to their complementary roles, such as by promoting the possibility for NGOs to act directly on behalf of trafficked persons to obtain reparations. Discussions also pointed to the fact that regions could not solve the problem of trafficking by acting in isolation; hence coordination of efforts and sharing of methodologies among regions was seen as imperative.

Conclusions

Having taken stock of progress made in terms of strategies and initiatives to tackle trafficking in persons in the different regions, several participants positively noted the degree to which the issues faced were similar across regions and types of mechanisms, while noting at the same time that both local conditions and the most effective response in a given context tended to vary significantly. In this context, it was highlighted that a bottom-up, context-sensitive and pragmatic approach was desirable to complement the top-down, universal approach represented by international legal and political instruments. This was borne out by several examples shared by participants of innovative and context-appropriate solutions found at the local level and in some cases shared across the sub-regions and regions.

Participants agreed that the setting of standards – notably through international and regional human rights instruments – had been a significant driver of progress made thus far. Furthermore at the technical level, the translation of standards through practical tools such as procedural guidelines and standard operating procedures appeared to be considered as a regional-level measure with important added value. It was also noted, however, that in many cases resources and capacities were not currently sufficient to allow for a comprehensive integration of a human rights-based approach into all levels of action. Furthermore, it was noted that additional efforts might be required in some cases to obtain the buy-in necessary at both political and technical levels to implement regional- and national action plans in a way that is both effective and respectful of human rights. Jointly owned monitoring and evaluation plans that include specific achievable goals and corresponding measurable indicators were seen as vital in this regard, not least to strike a balance between the need to maintain momentum and the aforementioned risk of contributing to ‘monitoring fatigue’ among States.

Participants agreed on the need for – and benefits of – enhanced coordination, cooperation and partnerships at all levels, and stressed the need to move to the next level through implementation, and careful monitoring, of agreed work plans and programmes. In this regard, the sharing of innovative solutions to the different challenges faced within the regions was particularly appreciated, as was the sharing of effective implementation models and methodologies for measuring impact.

The exchange of experiences also revealed that despite progress and lessons learned, efforts to effectively combat trafficking in persons continued to be hampered to some extent by a number of challenges. Among the major challenges raised by participants from different regions were the collection of reliable and uniform data from member states on actions taken (e.g. number of trafficked persons identified or number of residence permits issued to trafficked persons), and related challenges posed by a lack of uniformity in States' legal systems, legislation and definitions used. Other challenges included: a lack, in some instances, of adequately structured and resourced institutional frameworks; a lack, in many instances, of effective instruments for coordination and exchange; inadequate understanding of the specific challenges to be tackled and the persistence of a number of misconceptions and false assumptions; and an absence of sustainability caused, inter alia, by a lack of sustainable funding bases which hampered many programmes and projects including ones having achieved demonstrated impact and results.

Recommendations

Participants discussed a number of recommendations and action points as follows:

More focus is needed, both in strategies and programmes adopted at regional and sub-regional levels and in cooperation arrangements and information-sharing exercises.

Interventions to address any of the dimensions involved in trafficking in persons must be based on solid data and methodologically sound research. In this regard there is a need to promote more effective methods of collecting, analysing and sharing data (both on the phenomenon of trafficking and on the efforts by States and other actors to tackle it), as well as jointly-owned and appropriate monitoring and evaluation instruments to measure progress and take corrective action where needed. Further empirical research, notably impact assessments, is also needed to dispel myths and assumptions and inform strategies and interventions. In this regard, there is also a need to identify in each region the structure best placed to coordinate and/or conduct the research needed to inform policies and interventions within the region and follow up to ensure findings are translated into concrete action.

Adequate allocation of human, financial and material/ technical resources at all levels including the grassroots level, and capacity building where needed, are pre-requisites to building a more effective, human rights-based response to trafficking in persons within the regions. In this regard there is a need to identify, explore and pool available resources to actualize effective service delivery.

Institutional structures that are adequate and appropriate to each context are needed to allow for effective coordination, both within and among mechanisms. In this regard, it may be seen as generally preferable to reinforce existing structures rather than recreate them as such a proliferation might bring the risk of diluting both resources and impact.

In terms of entrenching a human rights-based approach, it might be necessary in some cases to ground anti-trafficking efforts more firmly on a broad-based political and institutional human rights platform.

There is a need, within many regions, to further harmonise legislation and standards in key areas to facilitate cooperation in those areas.

Cooperation and coordination of actions to end human trafficking across, but particularly within, the regions is essential and requires deepened coordination between mechanisms, especially sub-regional ones belonging to the same region.

Cooperation and partnerships across regions can usefully be strengthened and need to be based on the principles of complementarity and equal partnership. In this regard, lessons learned and good practices (including models and instruments) can usefully be shared across, as well as within, regions, but such models and instruments often need to be adapted to local realities rather than directly transposed as blueprints.

Protection of trafficked persons should include efforts to foster and ensure cooperation with relevant authorities including asylum, migration and border authorities as well as with UNHCR, to ensure that trafficked persons are properly identified, and that those who are, or may be, in need of international protection are referred to the competent authorities and have access to adequate procedures for the examination of their claims in an "age and gender - sensitive manner". Trafficked persons, or persons who are at risk of being trafficked, whose claims fall within the 1951 Convention relating to the Status of Refugees should be recognized as refugees and be afforded the corresponding international protection, including protection against refoulement to a place where they would be subjected to persecution. Those who do not qualify as refugees but who fear being subjected to other human rights violations or ill-treatment such as for instance, torture, or other cruel, inhuman or degrading treatment or punishment upon return, should be afforded the corresponding protection in line with international human rights law and standards.

Continued efforts are needed to strengthen and refine the integration of perspectives that are sensitive to both gender- and age considerations.

There is a need for sustainably funded compensation schemes for trafficked persons coupled with effective arrangements for trans-national granting of compensation to trafficked persons having been repatriated or resettled.

The added value of the mandate of the Special Rapporteur was acknowledged particularly in terms of its function as a catalyst for regional mechanisms, and in terms of its potential to mobilize the political commitment and will that are essential pre-conditions to effective implementation of a human rights-based response.

The participants unanimously agreed that information sharing and exchanges of views among technical experts from regional mechanisms, such as those that took place during this consultation, were of great added value and held significant potential for enhanced cooperation and partnership as well as for the identification of concrete ways forward at different levels. The consultation was seen as a valuable exercise in terms of taking stock of trends and challenges and identifying the general direction forward. In this regard, participants recommended that such consultations should continue in some form at regular intervals and should focus on one specific issue at a time. In this respect, effective strategies for collection of quality data to inform public policy was identified by several participants as an area that was both vital and in which regional mechanisms working together were ideally placed to contribute to international efforts. Other possible topics suggested for in-depth discussion include: ways of clarifying, strengthening and harmonizing legal frameworks especially key elements in the legal definitions of what constitutes the offence of trafficking in persons; a victim-centred and human rights-based approach to criminal justice with a particular focus on protection of trafficked persons; effective forms of technical cooperation and partnerships; and trafficking-related trends and modus operandi between regions. It was also noted that such consultations, if continued, should be inclusive of other regional and sub-regional mechanisms

and should take into account the differences in structures, membership and modalities between different mechanisms.

Regardless of whether this format for consultation among representatives of regional and sub-regional mechanisms might be replicated, participants recommended that exchanges of practical information, including on activities underway, good practices and lessons learned should take place through regular contacts, for example via electronic mail exchanges.