



Economic and Social Council

Distr.: Limited
19 May 2003

Original: English

Commission on Crime Prevention and Criminal Justice

Twelfth session
Vienna, 13-22 May 2003

Draft report

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Addendum

Thematic discussion on trafficking in human beings, especially women and children

A. Structure of the debate

1. The discussion was led by the following panellists: Suzanne Aho (Togo), Beate Andrees (ILO), Kevin Bales (United Nations Office on Drugs and Crime, Consultant), Radim Buress (Czech Republic), Jean-Michel Colombani (France), Maira Zenery Alfonso Cuellar (Colombia), Kristiina Kangaspunta (United Nations Office on Drugs and Crime), Ingela Klinteberg (Sweden), Helga Konrad (Austria), Elkane Mooh (Save the Children Sweden), Andrea Rossi (UNICEF), Wanchai Roujanavong (Thailand), Gulnara Shahinian (Armenia), José Luis Santiago Vasconcelos (Mexico) and Reynaldo G. Wycoco (Philippines).

2. The thematic discussion was introduced by a representative of the Secretariat, who stated that by holding such thematic discussions, the Commission had an opportunity to obtain insights from leading experts in the area of trafficking in persons. Experience gained in their own countries or in international organizations would help to frame the debate and serve as the basis for the discussion within the Commission.



B. Deliberations

1. Trends in trafficking in persons

3. Five panellists made statements on the sub-theme of trends in trafficking in persons, with particular emphasis on data collection, global trends in responses to trafficking, trafficking in Western Africa, trafficking in South-Eastern Europe and trafficking in children. Their statements reflected research undertaken on law enforcement, provision of services, legislative responses, public awareness-raising, forms of intervention and interdiction and the relationship between trafficking and such factors as poverty, gender discrimination and ethnic conflict.

4. The Commission was informed of the construction of a database by the Centre for International Crime Prevention of the United Nations Office on Drugs and Crime¹ of the Secretariat to contain information concerning trafficking in persons. The database was based on official statistics, reports of international organizations, information gathered by non-governmental organizations, academic research, conference papers and news clippings and other media information. At the time of the twelfth session of the Commission, suitable information from nearly 300 sources had been entered into the database, documenting nearly 3,000 cases of trafficking in persons. That information made possible the identification of the main countries of origin, transit and destination of trafficked persons. A clear relationship could be seen between economic development and the level and nature of trafficking in persons that was reported, with source countries typically being among the poorer and destination countries among the more affluent countries. Those data also showed that a majority of the victims were women trafficked for purposes of sexual exploitation and that nearly half of all cases included trafficking in children.

5. Research was presented that noted the strong link between trafficking in persons and human development, as measured by the United Nations human development index (HDI). It had been found that, within regions, variations in HDI were closely related to levels of trafficking in persons and slavery. It was therefore suggested that international development policies should place trafficking at the centre of development strategies. It was noted that, from a global perspective, there had been a significant increase over the last five years in the attention given to the issue of trafficking in persons. An important trend noted was that of centralization of response. In particular, increased centralization had been seen in the areas of data collection and the production of directories of service providers and agencies concerned with victims of trafficking. The emergence of new legislation had also been reported in a number of States, as well as more widely developed and increased opportunities for training for personnel dealing with trafficking in persons and the formulation of guidelines for the treatment of victims of trafficking. Such centralizing trends were seen as important, but it was noted that in many countries responsibility for trafficking spread across a number of government departments and that, therefore, there continued to be insufficient coordination within or between countries in their response to trafficking.

6. As regards trafficking in children in Western Africa, it was reported that traditional forms of education for rural children that involved their being placed with families in cities had evolved, in some cases, into forms of trafficking.

¹ Formerly known as the Office for Drug Control and Crime Prevention.

Promises of education and other opportunities were made to parents and children, but the actual result was that children were subjected to violent control and exploitation. On the basis of promises that consumer goods might be obtained through their employment, children were being trafficked from the poorer to the richer countries in the region. A sophisticated process involving recruiters, transporters and “placers” in the destination countries ensured that control of the children by criminals was complete and profitable. A number of individual cases of trafficked children were presented, all demonstrating the terrible damage done to the innocent young people involved. As an example of a positive response, despite the relative lack of resources, Togo had established and equipped monitoring committees around the country, mounted awareness-raising campaigns and set up programmes to provide school supplies to children and economic support to mothers, aimed at reducing the incidence of trafficking in children.

7. A report was also presented on the work of the Task Force on Trafficking in Human Beings of the Stability Pact for South-Eastern Europe. The Task Force had brought together more than 16 international agencies in order to cooperate with the countries of the region. Through the Task Force, countries had developed plans of action and had standardized their data collection. Working together, international agencies and the countries of the region had organized awareness-raising campaigns, training for police, shelter for victims, assistance for victims who wished to return to their homes and support in the drafting of new legislation. Additionally, the Task Force coordinated research, which was crucial to formulating an effective response, since the organized criminal groups that trafficked in persons reacted and adapted rapidly to changing legal, social and economic conditions. Despite the successes of the Task Force, there was still a significant amount of trafficking in the region. Accordingly, it was recommended that States give special attention to decriminalizing victims of trafficking and clearly differentiating the official response to those who were trafficked and smuggled.

8. Current research on trafficking in children in Africa, Europe and other regions was presented by the representative of the UNICEF Innocenti Research Centre. Trafficking in children was perceived as a severe or very severe problem by 90 per cent of respondents in Africa. When cases of trafficking in children were traced, it was found that many had been taken to more than one country in the process. Some countries had received trafficked children from more than nine other countries and the main countries of origin had seen their children trafficked to more than nine destination countries. It was noted that there were patterns in the flows of children trafficked within Africa. The primary flows involved children circulating between the countries of Western Africa and children trafficked from Eastern Africa to Southern Africa. There were also flows from Eastern and Western Africa northwards to Europe. A special challenge lay in confronting the fact that trafficking in persons was the responsibility of disparate agencies and departments in the different countries of Africa. That responsibility was assigned to ministries of social affairs in just under half of all countries, to ministries of labour in 17 per cent of countries, to ministries of home affairs in 7 per cent and to ministries of justice in 7 per cent of countries. In 23 per cent of countries, no ministry or department had responsibility for trafficking in children. Research results showed that trafficking in children should be seen as a cross-cutting protection issue that required an integrated and multifaceted strategy, as well as cross-border and multi-country approaches. It also required improved collaboration and partnerships and a strong knowledge base.

9. A number of delegates welcomed and supported the findings provided by the experts. A representative of the Department of Peacekeeping Operations of the Secretariat described the programmes the Department had instituted to combat trafficking and exploitation in the areas of conflict in which it operated. The delegates of several countries welcomed calls for the standardization of data collection, noting that their own official information did not yet match the common definitions set out in the United Nations Convention against Transnational Organized Crime (the “Organized Crime Convention”).²

2. Investigating and prosecuting cases of trafficking in persons: national and international law enforcement cooperation and assistance

10. Five panellists made statements on the sub-theme of investigating and prosecuting cases of trafficking in persons: national and international law enforcement cooperation and assistance, presenting regional and national criminal justice responses to trafficking in persons, including measures to strengthen national and international cooperation between authorities and other relevant bodies, investigating and prosecuting cases on trafficking in persons, fighting trafficking networks effectively and the role of the victim in the criminal justice process, as well as assistance to victims based on their individual needs.

11. One panellist emphasized the fact that, for criminal justice practitioners to work effectively, more international cooperation was required. It was necessary, for example, to establish links between law enforcement agencies and prosecutors’ offices in the countries of origin, transit and destination and to facilitate exchange of information and mutual legal assistance. Several examples of regional cooperation were given. It was noted that, at the national level, the flexible nature of organized criminal groups presented a challenge to investigative action. The adoption of effective law enforcement structures, the use of special investigation techniques and possibilities for freezing, seizure and confiscation of assets were among the key tools required for successful investigation and prosecution of trafficking cases.

12. It was also stressed that cooperation between authorities and other relevant actors, especially non-governmental organizations, was essential to a successful fight against traffickers. Because trafficking in persons was a complex problem, comprehensive responses were needed, involving all the relevant stakeholders. National action plans were mentioned as useful frameworks for coordinating the efforts of the different actors.

13. The importance of the ratification of the Organized Crime Convention and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Trafficking in Persons Protocol”),³ was strongly emphasized. Ratification would lead to more harmonious legislation relating to trafficking crimes and would enhance cooperation between States in the investigation and prosecution of cases. It was also stressed that legislation should cover all forms of exploitation related to trafficking in persons.

² General Assembly resolution 55/25, annex I.

³ General Assembly resolution 55/25, annex II.

14. Several speakers underlined the importance of supporting and protecting victims in order to empower them to cooperate with criminal justice practitioners and to start a new life. It was noted that, for a variety of reasons, many victims were reluctant to cooperate with police and prosecutors. Victims might be concerned about being treated as criminals because of illegal immigration or involvement in prostitution. Many were also fearful of retaliation by the traffickers against themselves or their family in their home countries if they were seen to be cooperating with the authorities. It was suggested that such problems could be reduced if both investigation and prosecution focused on the laundering of the proceeds of trafficking. More attention should also be given to possibilities for the confiscation of assets, for example, through the reversal of the burden of proof and the use of civil forfeiture.

15. Several delegates informed the Commission about new legislation and policies enabling immigration authorities to grant temporary or initial residence permits to “victim witnesses” cooperating with the police, as well as about new measures of effective victim-witness protection.

16. Other delegates reported on the status of ratification of the Organized Crime Convention and the Trafficking in Persons Protocol in their countries, including the formulation of national and regional action against trafficking such as reform of legislation, development of action plans, prevention measures and victim assistance schemes. Several speakers underlined the importance of understanding the root causes of trafficking, including factors influencing both supply and demand. Some speakers noted that corruption should be addressed effectively in order to eradicate trafficking in persons.

3. Awareness-raising and social intervention: victim support and the role of civil society

17. Five panellists made statements on the sub-theme of awareness-raising and social intervention: victim support and the role of civil society. Their presentations addressed experience gained in different parts of the world in various subjects, such as addressing root causes, factors influencing both supply and demand, special measures for preventing trafficking for purposes of forced labour, assistance to victims based on their individual needs, inclusion of gender and human rights perspectives in the response of the criminal justice system and involving civil society.

18. Speakers agreed that respect for the human rights of victims was a fundamental principle in all action against trafficking in persons. Assistance and protection of victims should be ensured, both in countries of destination and in countries of origin throughout the repatriation and reintegration process. It was stressed that cooperation with intergovernmental and non-governmental organizations was essential in order to respond adequately to the needs of victims.

19. Some speakers emphasized less visible forms of exploitation, which were often connected to forced labour. It was noted that raising awareness on legal ways to enter labour markets could provide alternatives to groups at risk of becoming victims of trafficking. It was further emphasized that trafficking, especially in women, could also be seen as one form of gender-based violence. Criminal justice responses were not successful if they were not combined with human rights and

gender perspectives. Concerning the destination countries, it was emphasized that victims of trafficking should be given the possibility to reflect on their situation and decide whether to stay or return to their home country. It was further stressed that temporary and permanent residence permits should be given to victims.

20. It was noted that civil society had a key role to play in prevention of trafficking and in assistance to victims. There were several advantages to involving civil society, such as its ability to reach groups that were out of reach to authorities and its possibility to alter stereotypical views related to trafficking in persons. At the same time, it was emphasized that certain difficulties might arise when involving civil society, such as competition between different organizations and the instability of some non-governmental organizations.

21. The Commission was provided with information on prevention of trafficking in persons and victim assistance initiatives by several delegations. Successful measures that had been taken in cooperation with intergovernmental and non-governmental organizations, such as information campaigns, were mentioned. Some delegations gave additional information on government action to allow victims of trafficking to stay in countries of destination, including through special visa regulations.

22. A representative of the Secretariat summarized the deliberations and concluded that consensus had emerged concerning the need for a victim-centred approach in the fight against trafficking in persons. Victim protection and support, it was generally felt, were essential both for humanitarian reasons and as a prerequisite for successful investigation and prosecution. In his closing remarks, the Chairman stated that trafficking in persons, especially women and children, was a global problem that affected all countries regardless of their level of development and that there was an urgent need for greater international cooperation to address the problem. Furthermore, he emphasized that States should become parties to and implement the Organized Crime Convention and the Protocols thereto, including the Trafficking in Persons Protocol. In that regard, it was necessary for States parties to align their national laws with the requirements of the Convention and its Protocols. He also noted that a number of actors, including intergovernmental and non-governmental organizations, were already actively working in the area of trafficking in persons and that it was important for them to share information on the subject.

C. Workshop on the theme “Trafficking in human beings, especially women and children”

23. The workshop on the theme “Trafficking in human beings, especially women and children” was organized by the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and coordinated by the United Nations Interregional Crime and Justice Research Institute. The workshop was chaired by a Vice-Chairman of the Commission at its twelfth session, T. P. Sreenivasan (India). Eleven papers were presented at the workshop by representatives of the various institutes of the Programme network and non-governmental organizations, by individual experts from Greece and Sweden, as well as by representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the United Nations High Commissioner for

Human Rights. A summary of the presentations was made by the scientific rapporteur of the workshop, Toni Makkai (Australian Institute of Criminology). Following past practice, the workshop was structured to facilitate an interactive dialogue among participants.

24. The first speaker, a Swedish public prosecutor, emphasized that, in order to complete a successful prosecution, it was essential for all the links in the chain to be documented and presented to the court. Important tools required for a successful prosecution included specific anti-trafficking legislation, the ability to track information over the Internet to provide digital evidence when the Internet had been used and to trace the money trail and identify those who exploited trafficked persons, and finally to locate the victims and secure their testimony. International cooperation was essential in prosecuting trafficking as it involved activities that crossed borders.

25. The representative of the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders provided a regional overview of research evidence on the scale and size of the problem in trafficking in persons in Asia and the Pacific. The representative pointed out that it was difficult to obtain a true picture of the problem, as the activity was illegal and involved organized criminal groups. Many of the countries did not have specific legislation on trafficking offences so official statistics were rare. It was noted that there was extensive intra-regional trafficking in the Mekong region, in particular around Thailand. Japan had become a major destination for victims of trafficking in persons from the surrounding subregion.

26. The representative of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders provided an overview of the trafficking situation in Latin America, including how trafficking occurred and the geographic and economic factors that facilitated it. The presentation drew on a study carried out by the International Human Rights Law Institute of the College of Law at DePaul University on sex trafficking in Central America and the Caribbean. There were few statistics on the scale and size of the problem and this was exacerbated by the lack of a uniform definition of the term “trafficking”. Most trafficking in the region was for sexual exploitation of women and children. Trafficking seemed to be comparatively well organized, involving an extensive use of networks and organizations.

27. The representative of the National Institute of Justice of the Department of Justice of the United States of America provided an overview of trafficking in North America (Canada, Mexico and the United States). Trafficking occurred for sexual exploitation, sweatshop labour and domestic servitude, while young children were also kidnapped and sold for adoption. Although smuggling and trafficking shared certain features, an important distinction was that smuggling resulted in short-term profit, while trafficking could extend over many years and result in long-term exploitation for profit. The presentation highlighted the lack of research on the dynamics and size of the problem. There was evidence that Canada was both a destination and a transit country for the United States, while Mexico was primarily a transit country to the United States. It was noted that trafficking was often discovered as a by-product of other law enforcement investigations and that little was known about the traffickers. What was known suggested that they ranged from individual entrepreneurs to sophisticated organized criminal rings.

28. Owing to scarcity of information from many countries of the region, the report of the African Institute for the Prevention of Crime and the Treatment of Offenders focused mainly on the Economic Community of West African States (ECOWAS). In reviewing the five most prevalent types of transnational organized crime, trafficking in women and children was ranked fifth. Only a few of the ECOWAS countries had specific legislation that criminalized trafficking in persons. The two main types of trafficking identified were trafficking in children, mainly for domestic work and farm labour, and trafficking of women and children for sexual exploitation. The former occurred both across and within national borders, while the latter was mainly outside the region. A number of significant subregional initiatives had been undertaken.

29. In the discussion, questions addressing operational, policy and research issues were raised. Speakers expressed particular concern over the lack of victim and witness protection. The increase in the number of children being trafficked called for more sustained efforts in that area. Both demand and supply should be addressed and several speakers stressed that prostitution and trafficking were distinct activities. It was further noted that the definition of "trafficking in persons" in the Trafficking in Persons Protocol broadened the scope of trafficking from sexual exploitation to other forms of trafficking, including forced labour and domestic servitude.

30. The workshop then proceeded to undertake an analysis of the problem, led by the National Institute of Justice. It was argued that there were six key components to an appropriate response to human trafficking; these were legislation, enforcement, prosecution, penalties, programmes for victims and public awareness and accountability. Examples of the efforts of different countries were described. Important aspects of enforcement included training, regional task forces and exchange of intelligence information. It was emphasized that there was a need to track the number of victims and services provided in order to assess the level of effort in that area. Community awareness was critical in the fight against trafficking, both in source and in destination countries. Only few countries monitored trafficking patterns through effective border controls, using reliable estimation methods.

31. The representative of UNHCR pointed out that trafficking was at the centre of the discourse on human rights, but there had been qualitative shifts in recent years in approaches to anti-trafficking, which included the setting of standards, development of national policies across countries and recognition of the plight of victims. Furthermore, source and destination countries were inextricably linked.

32. The scientific rapporteur from the Australian Institute of Criminology summarized the evidence base on trafficking as outlined in the various presentations. A number of limitations in the evidence base had been noted, including imprecise estimates of the size of the problem; large disparities between estimates and documented cases; a lack of consistent methodology for measuring key concepts such as exploitation; and problems in the reliability of data obtained from case studies, key informants, official statistics and media reports.

33. There was a need to adapt and modify existing methodologies and to develop innovative new ones in order to improve the reliability and validity of the data on trafficking. Without baseline data it would be impossible for policy makers to

allocate resources and to evaluate policy initiatives. In addition, ongoing monitoring was required in order to identify shifts in patterns, to respond more effectively to changes and to facilitate outcome evaluations on interventions. Finally, credible data were critical for effective training of law enforcement and other relevant practitioners and for informing local communities so they could be empowered also to assist in dealing with trafficking.

34. The rapporteur noted that comparative research added another layer of complexity to the research. National statistics were affected by domestic legislation that was not consistent across countries, nor were interdiction efforts consistent. Furthermore, different reporting levels by victims existed where the presence of the media and non-governmental organizations was greater and more active.

35. In terms of moving forward, there was a pressing need to undertake systematic work that would define key concepts and develop workable measures, document the methodologies used, produce estimates and then develop standards and norms of best practice, as well as methodologies for data collection that could be applied across countries to provide comparative data, while improving the quality of data through exchange of relevant information.
