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**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by Franciscans
International (FI), a non-governmental organization in
general consultative status, Amnesty International and
Global Alliance against Traffic in Women (GAATW), non-
governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 May 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

An urgent need for a victim-centred monitoring mechanism to the United Nations Convention against Transnational Organised Crime (UNTOC) to combat human trafficking

Amnesty International, the Global Alliance against Traffic in Women (GAATW) and Franciscans International welcome the report of the Special Rapporteur on trafficking in persons, especially women and children, in particular her timely focus on coordination and cooperation mechanisms to address trafficking. Furthermore, we welcome the planned Panel on Trafficking, enabling interaction between States and trafficked persons, particularly *“with a view to reinforcing the centrality of their human rights and needs, and taking into account their recommendations when devising actions to combat human trafficking”* (Decision 13/117).

We urge governments, in addressing these two items, to recognise the importance of coordination and cooperation mechanisms, as well as the involvement of trafficked persons themselves, in anti-trafficking responses. There is now no greater need for coordination and cooperation of anti-trafficking responses, involving trafficked persons, than in the implementation of the United Nations Convention against Transnational Organised Crime and the protocols thereto (UNTOC), including the Human Trafficking Protocol, as despite the millions of dollars spent and countless efforts made, trafficking in persons shows no sign of abating, and gross human rights violations continue.

Urgent need for a monitoring mechanism to UNTOC

As we mark the 10th anniversary of UNTOC, all States Parties have identified a need for a mechanism to monitor and review its implementation, concerned that there are *“persisting gaps in the implementation of the Convention and its Protocols”* (Decision 4/1, UNTOC 4th Conference of States Parties). In this regard, the *Open-ended Intergovernmental Meeting of Experts on Possible Mechanisms to Review Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocols thereto*, to the UNTOC Conference of Parties, met in Vienna, 30 September 2009 and 25-26 January 2010, and will now report to the 5th Conference of Parties to UNTOC, 18-22 October 2010. We urge States to support the implementation of a monitoring mechanism, recognising its importance in coordinating and consolidating huge international efforts on trafficking. Anti-trafficking stakeholders see a desperate need to assess and address gaps in trafficking responses if progress is to be made in *“efforts to prevent trafficking and to protect the rights of trafficked persons”* (OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, Recommended Principle no. 3).

Trafficked persons are central to effective and coordinated anti-trafficking responses

States Parties to UNTOC acknowledge:

“a victim-centred approach combined with a multidisciplinary model, would ensure cooperation among relevant government agencies and non-governmental organizations, as key elements in ensuring an effective strategy to protect and assist victims of trafficking” (UN Convention Against Transnational Organised Crime, 2008, 4th Conference of States Parties. Vienna, Austria, 8-17 October 2008. UNODC: Vienna).

Likewise governments noted, in previous Human Rights Council decisions on the problem of trafficking in persons (in particular 8/12 of 18 June 2008 and 11/3 of 17 June 2009 and

most recently 13/117 of 15 April 2010), the importance of cooperation with “*each other and with relevant intergovernmental and non-governmental organizations to ensure the effective countering of trafficking in persons*” (Decision 8/12).

The importance of cooperation in the four ‘P’s of anti-trafficking work: Prosecution, Prevention, Protection and Partnership

Prosecution

In early 2009, a young Thai woman named Note¹ was trafficked to the United Kingdom (UK) to work in indoor-based sex work. Note worked for four months without pay until she was removed during a police raid, after which she stayed in a shelter and cooperated with police investigations.

After Note had been repatriated to Thailand, the UK police contacted the Thai anti-trafficking NGO, Foundation for Women, and asked them to assist Note return to the UK to participate in a court hearing on her case. Foundation for Women prepared Note for her emotional and physical journey back to the UK and helped her to converse with the UK police, understand the legal processes facing her, and joined her at the court hearing. The defendant changed her plea to guilty once she became aware that Note would testify against her.

Foundation for Women has also tried to help her to access trafficked persons' compensation funds in the UK and Thailand but Note is yet to receive such compensation.

Prevention

The Chinese authorities, the International Labour Organisation and the All China Women's Federation, a mass organisation working on women's rights in China, collaborate on the Project to Prevent Trafficking in Girls and Young Women for Labour Exploitation in China (the CP-TING project) to prevent trafficking in women for labour exploitation within China.

Working in both sending and receiving provinces the CP-TING project partners assist provincial governments to create improved labour migration frameworks. These include, in sending provinces, better access to job placement services, training to improve skills for self-employment, and safe migration programmes. In receiving provinces, labour rights for migrant workers have been improved, including the implementation of standards for contracts, easier access to social services for migrant women and better working conditions.

The project has resulted in the Chinese government preparing a National Plan of Action on trafficking addressing prevention, education and safe migration with input from partners in the CP-TING project.

Protection

Ms Lakech Demise² travelled from Ethiopia to Germany in 2004 to work in a restaurant, where she was subsequently subjected to exploitative labour conditions. Ms Demise was forced to cook and clean for up to 19 hours a day and received a total of just \$US500 for the entire of her 18 months work. During this time, she was not free to move, her passport was confiscated, and her health deteriorated. Finally she escaped and was directed to the Berlin based NGO, Ban Ying, for assistance.

¹ not her real name

² not her real name

Ban Ying works with law enforcement officials on human trafficking through a 'cooperation contract' (common in many German States), which ensures that interdisciplinary approaches to trafficking in persons are institutionalized; the police are responsible for criminal investigations and NGOs, the needs of the trafficked person. At the time Ms Demise sought help from Ban Ying (December 2005), the terms of the cooperation contract only included trafficking for sexual exploitation. However, Ban Ying and police working on the case applied the cooperation contract to Ms Demise's case, despite no sexual exploitation having taken place.

This cooperation permitted: the dedicated law enforcement unit on trafficking to commence investigations; a temporary residence permit and employment rights to be granted to Ms Demise; and a place in a shelter for trafficked women to be made available. Ms. Demise subsequently testified in court against her traffickers and received compensation. This case served as a best practice example, leading to the expansion of the cooperation contract to all forms of trafficking in persons from 2008.

Partnership

The Federation of Women Lawyers (FIDA) Kenya, the Association of Media Women in Kenya and Women in Law East Africa founded the Kenyan Anti-Trafficking Network in 2005. Since then, the Network has grown to around 36 members incorporating other civil society organizations as well as government ministries, international organizations and embassies.

The purpose of the Network is to prevent and combat trafficking in persons and to assist trafficked persons by coordinating anti-trafficking efforts. A key focus of the Network has been the development of Kenya's legal and policy framework to address trafficking, including drafting the Trafficking in Persons Bill for Kenya and a related National Plan of Action. After multi-stakeholder discussions on the Bill, the Kenyan Parliament passed a motion to introduce a version of the Network's draft legislation in February 2009; this Bill is now in its final committee stages.

Recommendations

Through cooperation between civil society and governments worldwide, trafficked persons are being placed at the centre of anti-trafficking efforts to great effect: trafficking is being prevented and identified; trafficked persons are accessing protections, assistance and remedies for the exploitation they have faced; and traffickers are being prosecuted for their crimes.

We call on the Human Rights Council to:

Urge all States to:

- Support efforts to establish a monitoring mechanism to UNTOC, ensuring that trafficked persons are central to any monitoring mechanism developed to the Human Trafficking Protocol; and
- Support the inclusion of the following features in any monitoring mechanism established:
 1. An Independent Expert Monitoring Body comprised of non-governmental experts, selected for their knowledge of the areas covered by UNTOC and to ensure geographical spread:
 2. Consultation with victims of crimes covered by UNTOC: Current and former victims, their service providers and advocates have valuable knowledge

about UNTOC's implementation and impact, making them essential contributors to any monitoring process;

3. Thematic review including a wide range of data sources - data must be collected both on the extent to which states are implementing UNTOC and how effectively implementation is meeting the overall aims of the Convention;

4. A comprehensive and transparent reporting and follow-up mechanism must be developed;

5. Assured funding.

Urge States and civil society organisations to:

- Continue to collaborate and coordinate in anti-trafficking efforts;
 - Ensure that the human rights of trafficked persons' are at the centre of all anti-trafficking efforts.
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