



DRAFT CONCEPT NOTE

PARLIAMENTARY FORUM TO FIGHT HUMAN TRAFFICKING

1. BACKGROUND

The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) aims to mobilize state and non-state actors to eradicate human trafficking by (i) reducing both the vulnerability of potential victims and the demand for exploitation in all its forms; (ii) ensuring adequate protection and support to those who do fall victim, and (iii) supporting the efficient prosecution of the criminals involved, while respecting the fundamental human rights of all persons.

In carrying out its mission UN.GIFT will increase knowledge and awareness on human trafficking; promote effective rights-based responses; build capacity of state and non-state actors; and foster partnerships for joint action against human trafficking.

The Global Initiative's philosophy is premised upon the understanding that human trafficking cannot be dealt with by governments, civil society, academia or businesses alone. Cooperation among stakeholders is key for an effective response to this crime. The *United Nations Office on Drugs and Crime* (UNODC), acting as the facilitator of the UN.GIFT, is promoting the Initiative by building upon ongoing endeavours by several other members of the UN system, regional organizations and other stakeholders, taking into account their respective areas of expertise, accumulated knowledge and ground-work.

Under the framework of the UN Global Initiative, a global forum "The Vienna Forum to Fight Human Trafficking" will take place from 13-15 February 2008. The Forum will allow for an open environment to share and assess existing data and research developed to date, raise awareness, and build upon existing and forge new partnerships to enable all parties involved to take concrete steps to fight human trafficking, within their spheres of action. The Forum will be a catalyst for solution-seeking strategies and will address the following topics on human trafficking: i) vulnerability: why does human trafficking happen; ii) impact: human and social consequences of human trafficking; iii) action: innovative approaches to solving complex problems.

2. THE PARLIAMENTARY FORUM

National parliaments have a very important role to play in the fight against trafficking in persons as they can create the political and legislative environment for the successful development and implementation of anti-trafficking initiatives.

In order to respond to the problem of trafficking in persons, comprehensive national strategies must take into account the need to review and amend, as necessary, the legislative framework within which the response will take shape. This includes various legislative reforms required to bring national legislation into compliance with international standards and ensuring that the offence of trafficking is created in domestic criminal law. It also involves the criminalization of

other offences related to trafficking in persons as well as protection, prosecution and prevention measures.

In many countries, the anti-trafficking legislative framework is non-existent or not in compliance with international legal instruments. Thus, the critical role Parliaments have in national efforts towards eradicating human trafficking.

The Parliamentary Forum on Human Trafficking aims to bring the parliamentary dimension to the Vienna Forum. It will provide an opportunity for parliamentarians to discuss and share good practices in anti-human trafficking legislative review, among other issues.

3. THE RATIONALE OF THE FORUM

The Parliamentary Forum provides an opportunity to address the core issues related to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and other international instruments against human trafficking.

As the legislative authority, Parliaments are entrusted with the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and any other international instruments related to trafficking in persons; and adopt or amend national legislation to combat trafficking in persons in accordance with international standards so that the crime of trafficking is precisely defined in national law and detailed guidance is provided as to its various punishable elements.

More specifically, in the specific areas of prevention, protection and prosecution, as specified in the Protocol, Parliaments can:

a) Prevention:

- Ensure that travel or identity documents issued are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued;
- Enact legislation to strengthen border controls as may be needed to prevent and detect trafficking in persons;
- Be involved in information campaigns targeting relevant groups that or particular importance;
- Through legislation, address the specific needs of extremely vulnerable groups exposed to trafficking and address root causes of vulnerability through development strategies;
- Adopt or strengthen legislative measures to discourage the demand (whether it is for sexual exploitation, forced labour or services, slavery and practices similar to slavery, servitude and organ removal) in order to achieve effective dissuasion;
- Adopt positive measures to achieve equality between women and men, by supporting specific policies for women, who are more vulnerable to trafficking;
- Allocate sufficient funds for anti-human trafficking programmes, which include prevention measures, implementation of technical cooperation programmes, as well as protection of victims, and rehabilitation programmes.

b) Protection:

- Help establish proper procedures for rapidly identifying trafficked persons;
- Facilitate coordination between law enforcement and civil society in the protection of victims of trafficking;

- Ensure that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as trafficked persons;
- Ensure that the protection of trafficked persons is built into anti-trafficking legislation, including protection from summary deportation or return where there reasonable grounds to conclude that such deportation or return would represent significant security risk to the trafficked person and/or her/his family;
- Make effective provision for trafficked persons to be given legal information and assistance in a language they understand as well as appropriate social support sufficient to meet their immediate needs;
- Ensure that the right of trafficking victims to pursue for compensation is enshrined in law;
- Guarantee that protections for witnesses are provided for in law;
- Establish measures to guarantee the security of the victims, when involved in criminal procedures against traffickers;
- Help ensure that social services, necessary for trafficked persons are available and accessible, bearing in mind the special needs of the victims;
- Adopt the legislative measures for the setting up of specialized centres to assist the victims and provide them with socio-psychological and medical assistance;
- Allocate funds to both provide legal advice to the victims and compensate them;
- Support organisations and agencies that provide reintegration assistance, in countries of both destination and origin;
- Allocate funds for the repatriation process, whenever this repatriation is in the best interest of the victims;
- Enact legislation that allows the victims access to justice and civil or criminal proceedings;
- Create legislation that would allow for the confiscation of the proceeds derived from the crime of trafficking;

c) Prosecution:

- Make legislative provision for effective and proportional criminal penalties. Where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials;
- Enact legislation to provide for the administrative, civil and, where appropriate, criminal liability of legal persons for trafficking offences in addition to the liability of natural persons. Reviewing current laws, administrative controls and conditions relating to the licensing and operation of businesses that may serve as cover for trafficking such as marriage bureaux, employment agencies, travel agencies, hotels and escort services;
- Make legislative provision for confiscation of the instruments and proceeds of trafficking and related offences, where possible for the benefit of victims of trafficking. Consideration should be given to the establishment of a compensation fund for victims of trafficking and the use of confiscated assets to finance such a fund;
- Draft and ratify bilateral and multilateral agreements on mutual legal assistance and extradition in criminal matters.

4. PARTICIPANTS

Participants in the Parliamentary Forum must be members of Parliament and must be registered participants of the Vienna Forum

5. PREPARATORY MEETINGS AND RESOURCE MATERIALS FOR THE PARLIAMENTARY FORUM

An informal expert group meeting was held in May 2006 to develop draft model legislative provisions and an explanatory note in order to guide lawmakers in adopting legislation in compliance with UN related instruments.

Building upon the existing outcome of the informal expert group meeting, UNODC is leading an Expert Group Initiative (EGI) on Legislative Assessment. The EGI aims to develop:

- a. Model Law on trafficking in persons for countries with common law traditions;
- b. Model Law on trafficking in persons for countries with civil law legal traditions;
- c. Legislative checklist of complementary measures to facilitate an effective response to trafficking in persons (e.g. anti-money laundering provisions) and;
- d. A “Use of Terms” document outlining relevant definitions from relevant universal instruments with regard to the phenomena of trafficking in persons to serve as an important tool to clarify existing debates on the meaning of terms central to the trafficking problem (e.g. slavery, forced labour, smuggling, etc.).

An expert meeting will be held from 1-4 October 2007 to review the draft documents listed above, under elaboration by UNODC consultants.

From November 2007 to February 2008, UNODC will complete the above-mentioned documentation (items a-d), which would be presented at the Parliamentary Forum.

UNODC would prepare a draft handbook for parliamentarians to be presented and discussed at the Parliamentary Forum. From the discussions, the handbook would be later refined to address the needs and concerns of parliamentarians.

6. OUTCOMES

A report of the proceedings of the Parliamentary Forum can be presented at the Vienna Forum Plenary Session. The report will be part of the official proceedings of the Forum and contain recommendations and follow up actions on the discussion topics outlined above.

The proceedings for the Forum and the finalised version of the handbook for parliamentarians would be presented at the Inter-Parliamentary Union Statutory Assembly in April 2008, in South Africa.

7. TENTATIVE DATE

The Parliamentary Forum could take place on the 12 February 2008 during a full day session.