



Time to Stop, Look and Listen

Urgent Action for a Review Mechanism



GAATW POSITION ON A REVIEW MECHANISM

The Global Alliance Against Traffic in Women (GAATW) urges States Parties to the United Nations Convention against Transnational Organised Crime and the protocols thereto (UNTOC) to establish an inclusive and transparent mechanism to review the Convention.

SUMMARY

The United Nations Convention against Transnational Organised Crime and the protocols thereto (UNTOC) was adopted by States in 2000 and contains the first internationally agreed upon definition on trafficking in persons, including all forms of trafficking. The initial intentions behind UNTOC were to develop a coherent and coordinated international approach to the problem of transnational organised crime and for States Parties to develop their national legal frameworks and institutions accordingly. While UNTOC has helped make significant gains in the prevention of human trafficking, for example in raising awareness about trafficking in persons with 130 States now Parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Human Trafficking Protocol), these efforts have not always led to greater protections for trafficked persons.

The 2007 Global Alliance against Traffic in Women (GAATW) report *Collateral Damage* identified a worrying trend of human rights abuse of trafficked persons as a result of States' national anti-trafficking policies. Many of these policies have been implemented based on legal interpretations of UNTOC and specifically the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Human Trafficking Protocol). As a result, we are calling on States Parties who have signed or ratified UNTOC to **Stop, Look and Listen**.

We are calling on States Parties to UNTOC to:

- 1. Stop:** *Reflect* on both the progress made to date on human trafficking and the gaps which remain in ensuring UNTOCs objectives are met;
- 2. Look:** *Review* legislation, policy and practice which has been implemented or used to combat human trafficking; and
- 3. Listen:** *Evidence based approaches* must guide anti-trafficking responses. A mechanism for consultation with both trafficked persons and civil society service providers and advocates must be developed in order to ensure their views inform States Parties' responses.

The findings of *Collateral Damage* and evidence from GAATW's more than 100 member organisations have shown that many anti-trafficking laws not only fail trafficked persons, but also fail to effectively combat human trafficking.

As direct service providers and advocates who have been witness to the negative impact of anti-trafficking policies and related law enforcement responses on trafficked persons, GAATW member organisations have identified the following gaps in anti-trafficking responses:

Access to justice: Trafficked persons must have access to justice in order to pursue legal action against their traffickers and seek damages for the abuses they have experienced. While trafficked persons' testimonies are crucial to achieving prosecutions, states must recognise that without appropriate protections - assistance unconditional on law enforcement cooperation and adequate reflection periods - trafficked persons will continue to avoid identification and law enforcement cooperation.

Information about their rights: Trafficked persons are entitled to know their legal, political and civil rights. Such information will reduce their vulnerability to criminal elements and ensure that they gain access to their universal human rights.

Appropriate protection for trafficked persons: Protection which appropriately addresses the social needs of trafficked persons including adequate shelter, health care and social assistance must not be confused with protection which harms the trafficked person, for example lengthy, involuntary detentions of trafficked persons.

It is now ten years from the initial development of the Human Trafficking Protocol: existing information gathering and review processes for UNTOC and its protocols have proved inadequate to ensure that its objectives are met.

We therefore call on Governments to...

1. STOP and REFLECT

Independent experts

Experts elected from a pool of candidates proposed by States Parties will provide assistance to States Parties in compiling Country Reports which accurately reflect on their progress in implementing UNTOC.

Country visits

A rolling programme of country visits agreed by the Conference of States Parties must be included in any review mechanism in order to ensure country reports involve a broad range of stakeholders, including non-governmental organisations and national human rights institutions.

2. LOOK - REVIEW

Review implementation and the impact of implementation of UNTOC

The review process should not only consider the extent to which States are implementing UNTOC, but also the extent to which such implementation is meeting the aims of the Convention. In respect to trafficking, this should include the impact implementation is having on the protection of trafficked persons including practices such as:

Restrictions on freedom of movement; involuntary and often indefinite detentions; limited access to justice; conditional assistance; involuntary repatriation and minimal compensation.

3. LISTEN – EVIDENCE BASED APPROACH

Engage civil society through country visits and interactive dialogue:

Many national and international civil society organisations have expertise in the areas covered by UNTOC and provide valuable knowledge about Convention implementation. Non-government actors should be viewed as essential contributors in any review process.

Only through evidence-based approaches, which correctly identify and acknowledge the needs of trafficked persons can policy makers hope to comprehend the complex, localised and nuanced nature of trafficking in persons adequately to effectively combat the crime.

The following are basic principles for a functioning review mechanism:

- It must be complimentary and collaborative rather than duplicative of existing processes
- It must be impartial, funding should be from a regular UN budget so all states have equal control
- It must be inclusive, providing adequate opportunity for submissions and interaction with external stakeholders including CSOs and those affected by anti-trafficking responses at all stages of review
- It must be fair, taking into account context, country differences, and financial or other resource constraints
- It must be transparent, documentation and discussions must be publicised and made available to relevant stakeholders including CSOs