



Time to Stop, Look and Listen Urgent Action for a Review Mechanism



Calling for a Review Mechanism: Why?

Background

Human trafficking involves multiple human rights violations and is closely connected with violations of the rights of migrants, women, children and workers. Since the adoption of the UN Convention against Transnational Organised Crime and its Protocols (UNTOC), specifically the Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Human Trafficking Protocol), the issue of trafficking has developed in prominence on the international agenda and we welcome the increased attention which has been shown by national governments to addressing this horrific crime.

Governments have enthusiastically addressed the issue from a crime and border control perspective implementing relevant legislation, establishing plans of action to address trafficking and often designating specialised law enforcement units to identify and prosecute trafficking cases. In some cases, States have also developed protection procedures for trafficked persons including shelters, witness assistance, and sensitive repatriation processes. Furthermore much work has focussed on prevention campaigns to address trafficking in persons with states often launching high profile media actions in this regard.

The focus on criminal justice responses to trafficking has led to many strategies being developed to address trafficking, and States Parties have been able to share relevant examples through the Conference of Parties to UNTOC which currently acts as the review process for States' responses to the Convention. However, the current review process to UNTOC does not provide for a comprehensive review of States Parties anti-trafficking responses. In fact, it is often used as a means of promoting the "great work" of a country, rather than reviewing how the State is implementing the Protocol and the impact this is having. Furthermore, this process does not provide adequate means for civil society engagement.

We believe that the existing information gathering and implementation review mechanisms to UNTOC neither offer a means of highlighting progress on implementation of UNTOC made by States Parties nor provide adequate space for improvement on implementation measures taken.

A review mechanism would permit an inclusive, transparent and fair global review of States Parties anti-trafficking responses.

There are five key features we would like to see included in any review mechanism to UNTOC:

1. Civil Society Engagement: Many national and international civil society organisations including self-organised groups of trafficked persons and service providers have direct expertise in the areas covered by the Human Trafficking Protocol. Non-government actors should be viewed as essential contributors in any review process.
2. Review of implementation and the impact of implementation: 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. With respect to trafficking, this should include the impact implementation is having on the protection of trafficked persons, in accordance with international standards such as the Office of the High Commissioner for Human Rights (OHCHR) Principles and Guidelines on Human Rights and Trafficking (2002).
3. Country visits: A rolling programme of country visits agreed by the Conference of the Parties to UNTOC must be included in any review mechanism in order to ensure country reports involve a broad range of stakeholders, including NGOs and National Human Rights Institutions.
4. Independent experts: Independent experts would assist the reporting process and provide vital assistance to States, many of whom encounter difficulties meeting numerous competing reporting obligations.

5. Assured funding: Sustained funding is required for any monitoring mechanism to succeed.

Making the case for a review mechanism

If appropriately developed a review mechanism could help ensure consistency, transparency and accountability in States' implementation of legislation related to the Human Trafficking Protocol.

An effective review mechanism would benefit Civil Society Organisations (CSOs) by allowing:

- Interaction with States and the UNTOC review mechanism secretariat by CSOs and those affected by anti-trafficking responses
- Country visits including dialogue with national CSOs
- Follow up to States Parties' reports on implementation of UNTOC which would offer an opportunity to track progress
- Gathering of information from human rights treaty bodies and other relevant conventions as a means of feeding into the reporting process
- The involvement of independent experts
- Constructive dialogue (CD) with the possibility of CSO contribution before, during or after CD sessions

An effective review mechanism would benefit States by providing:

- Technical assistance to interpret the provisions of the Human Trafficking Protocol
- An impartial, inclusive and fair global review of States Parties anti-trafficking responses
- A means of accessing information which would help with criminal justice responses to human trafficking and ensure respect for human rights

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