

Fifth thematic session: Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims

How we are going to eradicate modern forms of slavery?

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I am honored to be invited to this fifth thematic session mandated by UN General Assembly part of the preparatory process leading to the adoption of the global compact for safe, orderly and regular migration. I do hope that the results of our constructive discussions will be reflected in the final policy document.

The current situation of people fleeing their homes taking desperate voyage in search of safety and better life is not a temporary process or a crisis that will pass. The migration, accompanied by sudden surges of people might become a permanent challenge to 21st century states and world order. As young African poet Warsan Shire writes” No one leaves home unless home is the mouth of a shark”. In countries where conflict rages, traffickers use the complex vulnerabilities of women, children and men. Trafficking takes many forms: sexual exploitation, forced labour, enlistment into armed and terrorist groups, exploitation for the drug and organ trade. Parents in their desire to protect their daughters from rape and sexual exploitation forcibly marry them: in Syria, early forced marriages are on an unprecedented rise. But for the majority, this survival strategy turns into domestic and sexual slavery – and often prostitution abroad.

Recent studies in zones of conflict and along migration routes tell us the trafficking and the enslavement that accompany conflict and war like zones as an inseparable shadow are taking on new proportions, intensifying and diversifying and the existing studies and information provides sufficient grounds to state that trafficking is not a side effect of conflict, it is a systemic part of it, and requires special attention from the very onset. Various forms of trafficking: trafficking for

ransom, trafficking for organs, transportation of drugs as well as forms of slavery such as early forced marriages, sell of women in slave markets have.

This last crisis strongly demonstrated the urgent need for rethinking priorities and development of innovative solutions based on human rights principles. It also demonstrated the need for more rigorous diplomacy to find resolution, research on early warning indicators, proactive preventive policies and strengthened cooperation between states and frontline actors over common values and obligations taken under international law to lessen the harm and make this route safe and protected. We also could witness that deviation from human rights brings to immeasurable consequences for those who need protection and the societies. It is obvious that well managed legal migration offers benefits for both sending and receiving countries and primarily increases well being of those who migrate as well as timely and comprehensively addressed such phenomena as migrant smuggling and trafficking in humans. Unrecognized slavery, ineffective policies to address root causes and the crime of trafficking and forced labour has huge human cost on those who look for protection and our societies.

Since 2000 there have been noticeable progress in fight against trafficking: developing domestic laws to be able to address emerging new forms of THB, improved methodologies for data collection, policies and institutional mechanisms to coordinate the policies on state and international level. Fight against trafficking was given highest concern and priority around the world. Effective identification based on clear definition and subsequent process in provision protection and reintegration has been also subject to numerous studies and promising practices have been developed. Actions to address slavery pale in comparison, as for many slavery thought to be abolished.

Alongside with all that important measures and a search for better clarity in defining these crimes there have been new conceptual proposals, brought up by Walk Free Foundation with the introduction of new umbrella term: Contemporary forms of slavery that aims to cover not so analogous phenomena as as slavery, human trafficking, forced labour, debt bondage, forced marriage and other slave-like practices, the phenomena that have their separate conventionally agreed definitions in international law. While it seems to be responsible and advanced step there are some practical questions that arise: would this definition invest in better clarity and identification of victims and be able to address complex nature of each

phenomena without simplification, losing important characteristics of each form that allow deeper insight in understanding phenomena to develop better address ?

How this new term going to replace negotiated and conventionally agreed being in use legal parameters to define these crimes?

The Conventional tools we work with containing comprehensive definition of crime and list of different forms of slavery, trafficking in humans and forced labour that are the product of extensive negotiations, collaboration and possible for that time agreement. By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect and to fulfil the obligations taken, as well as responsibility for collective obligations to eradicate such harmful for humanity crimes. Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with the treaty obligations and duties.

Ratified by 99 states **1926 Slavery Convention** established legal parameters to advance the suppression of slavery and the slave trade. Many forms of slavery are still vast in many parts of the world: hereditary forms of slavery, bonded labour, serfdom, cast and religion based forms of slavery.(which are not contemporary) It is in hierarchy of International law slavery stands higher than any other form of exploitation, as the most severe form as the most extreme form of control is manifested when it exhibits powers attached to ownership. This accounts for a distinction between slavery and other lesser exploitive practices, such as forced labour, servitude and the institutions and practices similar to slavery. However, such practices can also constitute “slavery” in law and can be prosecuted as such if they manifest “any or all of the powers relating to the right of ownership” or if the control exercised over the person subjected to the practices is comparable to ownership of the person.

Established in 2007 under the OHCHR the mandate on contemporary forms of slavery its causes and consequences is important mechanism that introduced considerable change in recognition and knowledge on traditional forms of slavery and invested in building knowledge, developing policy responses and introduction of domestic law to identify and protect victims and punish perpetrators.(Mauritania) It was through recalling obligations of the states under international law and existing agreed legal parameters of definition was possible to restart the dialogue on slavery at the Human Rights Council and initiate negotiations with the states, launch gradual process of bringing the forgotten, invisible but severe human rights crime to be addressed In some countries

visited, slavery was widely considered as psychological remnant, non-existent, it is so habitual that people do not notice, that children preparing tea or doing domestic work follow the patterns of life of their family paying unending debt with their slave labour. Negotiations with the states on identified situations and cases, based on legal parameters in Slavery Convention and other human rights instruments countries have ratified, have been that important process that allowed to restart the “forbidden” conversations and lay down the route to actions to recognize crime and provide protection to victims.

Unlike situation with slavery, fight against “trafficking in humans” has been in the center of attention since 2000. Ratified by almost all the countries of the world the Palermo Protocol is first and foremost an instrument related to cooperation, a legal framework against transnational organized crime across international borders. To be effective Article 5 therefore requires that the conduct set out in article 3 be criminalized in domestic legislation which should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol. Many international agencies such as UNODC, OSCE, Council of Europe have done important work to UNODC in bringing common understanding and clarity on key concepts from the law in a substantive way, organizing conferences and seminars and issue publications to develop common understanding of the complex situations covered by articles of the Convention. The comprehensive definition of trafficking in human beings contained in article 3 of the Trafficking in Persons Protocol aims to provide consistency and consensus around the world on the phenomenon of trafficking in persons and to develop collaboration between the states. The definition is result of difficult negotiation between states and the consent they adopted on provisions to prevent, suppress, and punish trafficking in persons, but more fundamentally, how each State will decide what constitutes ‘trafficking in persons’ within their own national jurisdiction.

Convention of Council of Europe on actions against trafficking in humans have adopted the definition from Palermo Protocol and similarly to Palermo Protocol stressed the importance of using a definition of trafficking in human beings on which there is international consensus. The main added value of the Convention is its human rights perspective and strong focus on victim protection.

Monitoring body of Convention has established very constructive dialogue with the states through comprehensive mechanism of evaluation and discussion. And in recently published compendium of best practices states can demonstrate important

achievement in such areas as data collection, identification , addressing the issues of migrant domestic workers specifically working in diplomatic households, etc.

The complex crimes we work with develop in the countries with very different political systems and security environments. The clear and agreed concepts of the international instrument states ratify put them under strong obligation to act. Without that definition and it's domestic application it will not be possible to collect reliable baseline information, data, and conduct research that illuminates the causes, prevalence, characteristics, trends, and consequences of all forms of human trafficking in various countries and cultures is crucial for developing anti-trafficking prevention strategies and measuring their impact. Legally sound definitions are key tool to improving coordination of national, regional and international efforts to stamp out slavery.

Understanding unique vulnerabilities along with trends in how people cope with these challenges can help in the development of targeted prevention strategies and measure impact. How the perpetrators are going to be brought to justice and how it will impact first of all on protection and empowerment of those whom we have taken responsibility to protect ? How to calculate funding ? Clear separate definitions required to organize targeted actions to protect victims .

Ultimately, they mean we can be held to account for our efforts to build change in the name of those who are the most exploited in the world today. Legally sound definitions are crucial to improving coordination of national, regional and international efforts to stamp out slavery,

Clear agreed definitions are also necessary for measuring progress . Only if we quantify a problem are we able to understand it's dynamics over time, and whether we are on the right path solving it. Some problems are easier to measure than others, and everyone would agree that measuring "slavery" poses myriad challenges. The hidden nature of the problem, political sensitivities and ethical considerations make it very difficult to implement national surveys on the basis of which reliable data can be generated.

I introduced as an example the types of trafficking that have been identified during this last crisis. There are miríadas of complex situations that we have been addressing through our professional practice that required thorough understanding of the context, taking into consideration each detail,: be it slavery , trafficking in humans, forced labor, worst forms of child labor, domestic servitude serfdom, bonded labor Around core and clear understanding institutional mechanisms within the countries to fight against trafficking, slavery, forced labor , worst forms of child labor have been established. Around clear and agreed understanding international cooperation is possible and can be effective.

Fighting this multifaced crimes is long road requiring strong political will, strong cooperation , sustainable well targeted inclusive programs, with if done well bring outstanding benefits for all those who are victims of crime. To develop such programs we need agreed legal parameters, specific targeted programs for each groups, thorough analysis of all, factors that might influence, be it level of education, traditional practices, parallel laws and long recovery and transforming period as even provided with freedom and alternatives of new life these people need learn how to live and to start their live from new.