



Office of the High Commissioner for Human Rights

Mandate of the Special Rapporteur on trafficking in persons, especially women and children

Preliminary Report

**Regional consultation on the right to an effective
remedy for trafficked persons**

Amman, 9 January 2014

Context

On 9 January 2014, the Special Rapporteur on trafficking in persons, especially women and children convened a regional consultation on the right to an effective remedy for trafficked persons with representatives of States from the Middle East and North Africa, regional experts and international and regional organizations and mechanisms to solicit comments on the draft Basic Principles on the right to an effective remedy for trafficked persons (hereinafter referred to as draft Basic Principles) in preparation of her report to the twenty-sixth session of the Human Rights Council pursuant to the Human Rights Council resolution 20/1¹.

This regional consultation was the fifth and last in a series of regional consultations aimed at providing an opportunity for States from the region, experts and relevant stakeholders to discuss and provide comments on the draft Basic Principles to feed into its finalization. Since March 2013, the Special Rapporteur in cooperation with OHCHR has convened four regional consultations in Geneva, Santiago, Bangkok and Abuja as well as two global consultations in New York and Vienna.

In the exercise of her mandate, the Special Rapporteur has consistently advocated for the importance of the right to an effective remedy for trafficked victims which plays a crucial role in ensuring victims' protection, recovery/rehabilitation and reintegration, as well as the prevention of re-victimisation in accordance with the victim-centred, human right based approach.

In her report to the Human Rights Council in 2011, the Special Rapporteur examined the conceptual basis of the right to an effective remedy in the context of trafficked victims and put forward recommendations to States on how they could fulfil their obligations to provide effective remedies to trafficked victims². The report focused on the legal framework as well as good practices to facilitate the implementation of effective remedies at municipal level. In the same report, the Special Rapporteur introduced the "Draft Basic Principles on the Right to an Effective Remedy for Trafficked Persons", intended to provide States with useful guidance in operationalizing the right to an effective remedy as implementation often remains challenging. The above-mentioned report was informed by an expert consultation held in November 2010 in Bratislava, where discussions were held on possible ways and means of realizing the right to an effective remedy, focusing on the normative framework, content and scope of this right, as well as States' responses and concrete strategies to implement it at the national level³. During the development of the thematic report the Special Rapporteur also sought stakeholders' views through an online discussion forum in February 2011. The Special Rapporteur also presented her thematic analysis on the realization of the right to effective remedies for trafficked victims to the UN General Assembly in 2011⁴.

Taking note of the report of the Special Rapporteur, the Human Rights Council adopted Resolution 20/1⁵ in June 2012, which among others, requested the Office of the High Commissioner to organize, in close cooperation with the Special Rapporteur on

¹ A/HRC/RES/20/1

² A/HRC/17/35

³ A/HRC/17/35/Add.6

⁴ A/66/283

⁵ A/HRC/RES/20/1

trafficking in persons, especially women and children, consultations with States, regional intergovernmental organizations and the civil society on the draft Basic Principles, and to submit a summary thereon to the Human Rights Council at its twenty-sixth session in June 2014.

Introduction

His Excellency, Mr. Ahmad Jamalieh, General Secretary of the Jordanian Ministry of Justice, delivered welcoming remarks. He commended the initiative of the Special Rapporteur and expressed his Government's gratefulness for the holding of this regional consultation in Jordan. Mr. Jamalieh informed that trafficking in persons has gained momentum at the international, regional and national levels as a crime that is unanimously condemned as it targets the most vulnerable components of society. This crime which is a challenge to humanity today needs due attention on the parts of all stakeholders. He further informed that, in implementing the multi-stakeholder approach advocated by the Special Rapporteur, Jordan has taken initiatives to enhance the participation of non-governmental organizations in the fight against trafficking in the country. It was underscored that this consultation was an opportunity to deepen the discussion about the content of the draft Basic Principles and share practical guidance as well as exchange experiences on their implementation at the regional level. Mr. Jamalieh also stressed that there is a need, at both regional and global levels, to specifically identify obstacles to the implementation and realization of effective remedies especially in a context of harsh economic conjunctures prevailing in several parts of the world. He emphasized that specific focus should be given to satisfaction and guarantee of non-repetition and expressed his hopes that this forum will provide insights to his Government and others from the region in their fight against trafficking.

Ms. Nada Darwazeh, Gender Adviser, OHCHR Middle East Regional Office noted in her opening remarks, the link between trafficking of human beings and mixed migrations flows motivated by the search for better economic and life opportunities and often resulting in serious human rights violations. She mentioned that addressing the root causes of trafficking in persons was an integral part of effective remedies as it would greatly contribute to the guarantee of non-repetition. She further noted that 14 States of the region have ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (hereafter the Palermo Protocol). Yet the ILO's Global Estimate of Forced Labour, which includes cases that could be considered slavery or human trafficking, suggests that as many as 3.4 million people from the Middle East Region may live in situations of forced labour today. She concluded by encouraging participants to share experiences in this field and discuss how to overcome the remaining challenges.

The Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, reiterated that effective remedies are crucial in the combat against trafficking in persons. She informed that the right to effective remedy as a human right is widely recognized by the existing international legal framework. However, she also lamented that despite well-developed international standards, access to effective remedies remains limited for victims of trafficking who have suffered serious violations of their fundamental rights. Sometimes victims are used as an instrument in criminal investigations and are neither provided adequate support nor assistance. Therefore, she stressed the importance to recognize that victims require protection, a period for recovery with the delivery of residency permits to facilitate their full rehabilitation and reintegration. Ms. Ezeilo explained that while compensation is an important component of remedies, it is necessary to acknowledge that effective remedies are structured around two major

components: the substantive component (restitution, recovery/rehabilitation, compensation, satisfaction and guarantee of non-repetition) and the procedural component including access to information, legal assistance, and regularization of residency status which contribute to the realization of the substantive components. International human rights standards make clear that the substantive obligations to provide for an effective remedy to victims of gross violations of international human rights law and serious violations of international humanitarian law include ensuring equal and effective access to justice and prompt and adequate reparation for the harm suffered. The procedural obligations may be conceived as the range of measures needed to guarantee access to an effective remedy.

The Special Rapporteur concluded by emphasizing that these consultations are unique opportunities to collect views, comments and inputs at regional and national levels for the refinement and understanding of the draft Basic Principles and for sharing experiences and perspectives from national contexts. She added that contributions from member states, but also non-governmental organizations are very important to strengthen the basic principles.

Substantive components of the right to an effective remedy

During this session, presentations were made by experts on the existing international and regional legal frameworks on the right to an effective remedy and initiatives aimed at realizing it.

Overview of the international and regional legal frameworks on the right to an effective remedy

Ms. Jayne Huckerby, Associate Professor of Clinical Law, Duke University, School of Law, USA, provided an overview of international law on States' obligations on the right to effective remedies for trafficked persons, and the remedies envisaged in various international legal standards. The obligation to provide remedies to victim of trafficking primarily stems from the Palermo Protocol. In addition to the Palermo Protocol, several other international legal instruments speak to victims' right to effective remedies. The Convention on the Elimination of All forms of Discrimination Against Women in its article 6 provides that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women". Alongside the provisions which directly address trafficking in persons, there are other addressing victims of human right violations, the rights of migrant workers and members of their families, but also provisions contained in international labour conventions (ILO 181 and 189), relevant obligations under international human rights law such as freedom from discrimination, the right to equality, and the rights of the child. The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law clearly lay the State responsibility to provide effective remedies.

States' duty to provide remedies under international law would arise in three particular circumstances

- through the act or omission of a state actor, the state is responsible for the act of trafficking (ex: evidence that border officers are engaging in trafficking in persons);
- violation are committed by non -state actors with the acquiescence, collaboration, knowledge, acknowledgment of the state equating to some level of state involvement;

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- when the state has failed to exercise due diligence to prevent, investigate or prosecute a violation by private actors. Trafficking in persons very often involves non-government entities but in respect of which the government has an obligation of due diligence to prevent, investigate and prosecute.

Ms. Huckerby stressed that under international standards, States' obligations to provide a right to remedy applies to both citizens and non-citizens. It also applies when the victim is within the jurisdiction of the Government including territorial jurisdiction (country of destination, transit) but also contexts in which the individual is somehow under the custody of the Government (ex: state party contributing troops to UN peace keeping forces deployed outside the territory, in a case a trafficked victim comes under the protection of these troops, the State is responsible for the provision of effective remedies). It is not only a territorial obligation but a broader one under jurisdiction.

As a general principle the remedy must lead to relief, in other terms, it must as much as possible erase all the consequences the violations have had on the victims' life and reinstate the situation that would have prevailed in the victims' life if the violation had not occurred. It is worth noting that reinstating the situation prevailing prior to trafficking might not always be in the victim's best interest as trafficking is often the result of existing inequalities and poverty and factors that in the first instance contributed to the victim's vulnerability to traffickers. Finally, the remedy should be proportionate to the harm suffered, as well as being accessible, affordable, timely and effective.

The international legal provisions provide for three types of complementary reparation or remedy that can be granted as follows:

- Restitution: involves material, judicial or other measures aimed at restoring the situation existing prior to the violation. This can include: releasing a victim from detention, recognizing legal identity or residency, returning property, affording safe repatriation if appropriate, or integration and resettlement in the country of destination. Restitution can also include rehabilitation, medical and psychological care.
- Compensation: is designed to be provided when the damage suffered can be economically assessed. Article 6 of the Palermo Protocol speaks to the obligation to ensure that domestic legal systems contain measures that offer the possibility of obtaining compensation. Article 25 of the UN Convention on Transnational Organized Crimes also requires State parties to insure proper procedures for compensation. Sometimes victims may sue traffickers for civil damages in civil courts; sometimes State may award criminal damages or impose for compensation. Other countries have established schemes that allow victims to obtain compensation from the Government. The option of compensation through confiscation of proceeds of trafficking has also been adopted in several states although it often remains difficult to implement. Compensation addresses loss of earnings, medical and legal costs incurred to address the violation and physical harm.
- Satisfaction or guarantee of non-repetition: aims at supplementing the other two elements. This can include, among others, ensuring the safety of victims and their families, measures to prevent future trafficking, ensure cooperation among State parties.

Ms. Huckerby further informed that the procedural aspect of the right to remedies is paramount for actually accessing this right. Some of the main challenges faced by victims include detention as irregular migrants or for crimes committed while being trafficked. The Special Rapporteurs often denounced restrictive immigration policies and quick deportation of victims as an obstacle to accessing legal remedies in countries of destination. Very often victims are unidentified, which is a major obstacle to their access to remedies. Trafficking victims often do not have information on their right to access effective remedies. In some

cases the domestic law will require conditional right to remedies upon cooperation with the criminal investigation to receive support from the government which in itself is a disincentive as many victims will opt not to cooperate, often by fear of reprisal, and thus lose their access to remedies.

The Special Rapporteur highlighted that effective remedies are often not accessible for trafficked persons as observed during country visits undertaken. There is a gap between the laws, standards and their implementation. Some countries have not addressed the issue of effective remedies in their legislation and policy framework. In countries where good laws have been established, with specific provisions on compensation and witness protection, implementation is deficient. For most victims of trafficking it is almost impossible to obtain compensation. Limited access to information in a language victims understand jeopardizes their ability to claim the remedies they are entitled to. Most worrisome is the fact that due to their irregular status, victims often face deportation before being able to access remedies. It is in response to these challenges that she developed the draft Basic Principles intended to provide States with useful guidance on implementing the right to an effective remedy.

The Special Rapporteur also noted that the OHCHR Recommended Principles on Human Rights and Human Trafficking highlights that trafficked persons, as victims of human rights violations, have the right to adequate and appropriate remedies. She emphasized the importance of non-conditional assistance to victims of trafficking.

Regional frameworks and initiatives

Dr. Mohamed Mattar, Senior Research Professor of International Law at Johns Hopkins University and regional specialist provided an overview of the responses to trafficking in persons from within the MENA region. He highlighted that at the regional level a distinction can be made between the hard law and soft law frameworks:

➤ **Hard law**

The League of Arab State addressed the issue of human trafficking in three conventions: (1) The 2012 Arab Convention on Combating Transnational Organized Crime which defines the offence of trafficking adopting the definition of Article 3 of the Palermo Protocol, and calls upon States to take the necessary measures to criminalize in their domestic law any act committed by organized criminal groups including the act of human trafficking (Article 11) and trafficking in human organs (Article 12). (2) The 2010 Arab Convention to Combat Information Technology Crimes in its article 16 criminalizes trafficking in human beings as crimes committed through the use of technology. The Convention also criminalizes human trafficking related transactions through the internet. The punishment in both cases is imprisonment for a minimum of three years and a fine. (3) The 2004 Arab Charter on Human Rights prohibits trafficking in human organs (article 9) and presumably trafficking for the use of "medical experimentation" as well as "all forms of slavery and trafficking in human beings" (article 20). The Charter adopts a broad definition of human trafficking, including trafficking for the purpose of sexual exploitation and pays special attention to the exploitation of children in armed conflict. Although the Arab charter does not explicitly refer to the protection and assistance of victims of trafficking, it provides for the right to seek legal remedy (article 12), the right to compensation (articles 8(2), 14(7), 19 (2)), and requires State parties to ensure that any person whose rights or freedoms have been violated shall have an effective remedy. In the region, ten countries have adopted comprehensive laws on combatting trafficking in persons. Two countries have provisions in

their criminal codes explicitly speaking to the crime of trafficking in human beings while six countries are still in the process of legislating on this matter.

➤ Soft law

Reference was also made to 'soft law' that may serve as guidelines in the area of combating human trafficking in the Arab World including the Model Law adopted in 2012. This model law was developed as a reference for parliamentarians in countries that are still in the process of developing a comprehensive law on trafficking. It defines trafficking as in article 3 of the Palermo Protocol. The model law abolishes the statute of limitation providing that "criminal activities involving crimes of human trafficking that are mentioned in this law shall not be subject to a limitation" (article 19). In chapter five, Articles 27 to 36 cover protection of victims including medical care, psychological assistance, guarantee of personal freedom, right to identity, right to information, right to be heard in court, right to legal assistance and right to temporary residency status. The Model Law also provides for the principle of non-punishment for crimes committed while being trafficked (Article 27 and 28).

The Arab Strategy also recommends victim's protection notably: (a) incorporating protection of victims in national laws, policies and programs, (b) early identification of victims of trafficking, (c) exemptions for victims from court fees and attorneys' fees, (d) guaranteeing their right to compensation for harm suffered as well as (e) engaging and cooperating with NGOs and other elements of civil society in adopting and implementing these protective measures. Another key recommendation within the strategy is to increase the role of religious institutions in raising awareness about the dangers of trafficking in persons and its various dimensions, while highlighting the role of divine law (Sharia) in prohibiting it.

Realizing restitution, recovery (rehabilitation) and compensation

Reparation and Compensation

In his presentation on reparation and compensation, Dr. Fayeze Mohamed Hussein, Director of the Legal Clinic at Alexandria University, Egypt, stressed that there are gaps in the region regarding the establishment of comprehensive national legal provisions guaranteeing the right to effective remedies and victims' access to such rights. Compensation is provided for by several states either through civil or criminal courts; others have established victims funds to be financed by the seizure of criminal proceeds. However, the general pattern in Arab legislations remains that victims of trafficking have to go through regular channels for victims' compensation, which does not take into account the particular status of victims of trafficking. For example, the Egyptian law provides for a victims' fund to provide assistance. However, it is not clear whether the fund is geared at guaranteeing restitution or compensation. Moreover, all assistance services have relied upon the fund which has limited resources. Dr. Fayeze also stressed that there is a need to unify the scheme of confiscation of proceeds of crimes, and specify that proceeds should go directly to victims of crimes. While appreciating that each country may have their own strategies for implementation, he further noted that a consensus on generally accepted standards for victims' compensation and assistance was primordial. He further suggested that it would be beneficial to define a proportion of the victim funds that would be exclusively allocated for victims' compensation as at present most funds are spent for awareness raising, training and capacity building activities as well as the organization of conferences. Dr Fayeze further emphasized that any compensation awarded to child victims should remain under the custody of the State so that it may be used by the victims to build their future.

Mr. Mohanad Dweikat, Head of the Trafficking Unit, Jordan National Security Department, informed that in order to guarantee legal assistance for victims, as provided by the Jordanian law, the national committee on trafficking in persons has mobilized lawyers and signed MOUs for legal assistance to victims while judges and prosecutors have been trained to process cases of trafficking. A major challenge underscored by several participants in realizing redress and reparation is the limited capacity of judicial authorities in dealing with cases of trafficking to understand the vulnerability of victims of such crimes. The training of judicial professionals as well as law enforcement operatives greatly contribute to the non-criminalization of victims of trafficking due to their immigration status or illicit conduct while being trafficked which today constitute a major shortfall in States' responses to trafficking in persons. Within the context of judicial proceedings it is very important to grant victims the protection that they require. In Jordan, hearings can take place with electronic pre-recorded statements for child victims. Such practices should be extended not only to the most vulnerable victims but to all victims of trafficking upon request and as required. Mr. Dweikat also underscored that service providers such as doctors and social workers should always be part of rescue operations so as to ensure that the victims' first contact with authorities is not only through law enforcement operatives but also involve professionals able to respond to their immediate needs. Similarly to several other States in the region, the Jordanian law does not contain specific provisions for compensation, but the civil law provides for compensation to victims in general. Finally, Mr. Dweikat explained that in the context of Jordan, the issue of detecting and assisting victims of trafficking within the refugee population namely from Syria now represents an additional challenge. Mr. Dweikat informed that displacement movements create environment prone to mix migration flows. A joint project with IOM was launched to provide direct assistance to vulnerable refugee families at risk of being trafficked and to raise awareness on the threat of trafficking in this community. Dr. Amira Ahmed Mohamed, the counter -trafficking focal point for IOM Jordan, suggested that special attention be paid to victims of trafficking in emergency contexts such as in case of movements of refugees and asylum seekers for whom safe repatriation is not an option and tailored remedies are needed.

Dr. Lina Shabeeb, Director of the Public Awareness (street law) Clinic on Human Trafficking at the University of Jordan noted that in Jordan judicial system, namely compensation could be awarded to victims through civil or criminal courts. Once the trafficker is identified and charged, the victim's right to claim for civil damages is established, regardless of whether the perpetrator is brought to court. If the perpetrator(s) is not prosecuted (for example, if the crime was considered not serious or the perpetrator cooperated with the police), the victim can seek civil damages from the perpetrator before the civil court. If the perpetrator is prosecuted and referred to a criminal court, then the victim can either submit a claim for civil damages before the criminal judge, or wait until there is a final (irrevocable) ruling, and then lodge a claim for civil damages before the civil court.

However, Dr. Shabeeb and Dr. Mattar both referred to the different conceptualization of compensation depending on whether it is a common law system or a civil law system. Therefore, they underscored that it is important that the Basic Principles adopts a unified language on the legal concept of compensation. The Special Rapporteur further mentioned that in order to speed up legal processes in seeking compensation criminal proceedings should be favoured to avoid the double process of going through first the criminal channel and subsequently the civil courts, although it is worth recognizing that often civil lawyers are more experienced in addressing compensation while criminal judges are mainly focusing on the sentencing.

Procedural preconditions in realizing the right to effective remedies

Mr. Al Awdi Ahmed Mohsen from the Yemen Ministry of Information and member of the Yemen National Technical Committee to Combat Human Trafficking informed that a bill developed in coordination with all stakeholders and UNODC as well as international experts is now being considered by the Yemeni parliament in order to combat trafficking and bring relief to victims. Although the proposal integrates several aspects of the draft principles, it contains major gaps mainly with regards to victims' protection as article 7 of this bill provides for the retention of victims in detention centres. The option of residency permits was rejected by the committee in charge of drafting the bill, and the proposed assistance program remains partial as it does not extend education and training opportunities to victims. In this context, he stressed that the establishment of national committees involving all stakeholders including CSOs is very important as they actively contribute to the development of comprehensive legal frameworks as well as tailored national plans of action to combat trafficking which are needed to operationalize mechanisms for the realization of effective remedies. Bridging legal gaps should be the first step towards guaranteeing effective remedies to victims, especially with regards to redress and compensation. Moreover, it was noted that the absence of appropriate channels and mechanisms through which victims can have access to remedies greatly jeopardizes their access to protection, reparation, restitution/rehabilitation and reintegration. Mr. Al Awdi expressed that, while guaranteeing the best interest of victims, it is important to assess whether repatriation is safe or not and establish options for both temporary and permanent stay permits. The reflection period, which the Special Rapporteur has considered crucial, should be accompanied by access to shelter as well as psycho-social services to victims. While victims should be provided shelters, their freedom should be guaranteed and they should not be detained nor inflicted further harm as sometimes identified victims remain in shelters where their freedom of movement is restricted. Moreover, capacity building is fundamental including for professionals directly interacting with children. Based on the Yemeni experience, it was also suggested that other emerging forms of trafficking be specifically mentioned in the draft Basic Principles such as forced and servile marriage: the example of a case where a woman was taken to a third country after marriage to become a domestic slave was mentioned. Mr. Al Awdi, finally noted that sharing best practices on how to operationalize the Basic Principles is very important for their effective implementation and concluded by recommending that once the draft principles are finalized, states should ensure that national laws integrate these principles.

With regards to identification, Mr. Dweikat informed that in Jordan efforts have been made to cooperate with civil society in order to increase victims' identification which remains a significant pitfall in the fight against trafficking. The definition of identification protocols and their diffusion among stakeholders is an integral part of increasing victims' identification. The Jordanian media involvement has also been promoted in order to raise awareness among the public and encourage referrals from the general population as well as provide tools (such as hotlines) for victims and others to alert the authorities

Ms Lina Shabeeb informed that the Jordanian anti-trafficking in persons law establishes the State responsibility (or ability) to facilitate access to remedies (art. 1(2)), the access to competent and independent authority for this purpose (art. 1(5)), the provision of legal, medical, physiological, social, administrative and other assistance necessary in seeking remedies (1(5)(b)) and the provision of a reflection period and a residence status (art. 1(5)(c), art. 7(b) & art. 8(a)). However, the implementation of these provisions is often undermined by the fact that victims, especially foreign victims, are not aware of their rights and that the language barriers greatly contribute to their disempowerment. She also noted that the issues of representation and court fees before civil courts for compensation claims

are considerable obstacles. In the context of Jordan, submitting the official receipt that proves payment of the court fees is a procedural precondition without which the case cannot be officially filed and cannot be allocated a number. The lawyer can ask for a waiver of the court fees, but such requests are very procedural, consume a significant amount of time and are not always successful. Once the damages are awarded, the court orders the defendant to reimburse the plaintiff the court fees. Human trafficking victims seeking civil damages must pay the court fees in advance with the hope of getting reimbursed later which puts a huge burden on already disempowered individuals thus jeopardizing their access to judicial remedies. Legal representation in human trafficking cases needs to be thoroughly legislated and closely monitored so as to insure free access to both courts and legal representation for victims of trafficking in persons. The lengthy judicial processes were also identified as a disincentive for victims to seek compensation through both criminal and civil proceedings. Another significant obstacle in seeking compensation through the judicial path is linked to the assessment of civil damages. The judicial culture in the region is such that judges perceive civil damages as a remedy which should not constitute an additional punishment on perpetrators and therefore judges might not be sympathetic to substantial claims. The lack of experience in evaluating the impact of the grave effects of human trafficking on victims raises questions such as: What price tag can be put on the violation of human rights and human dignity? This is a great challenge to the awarding of fair compensation to victims. Finally, it was also noted that socio-cultural elements negatively impact access to the judicial remedies especially with regards to sex-workers, whether they worked by choice or through coercion, their rights are far from being accepted, let alone respected.

Dr. Mattar underscored that indeed Arab courts do not have the culture of providing damages and to mitigate this cultural obstacle legislation is crucial. National laws on trafficking should have specific provisions on effective remedies including access to justice and element such as waving court fees and entitlement to legal aid for victims should be clearly spelled out and implemented

Restitution and Recovery (Rehabilitation)

Ms. Mehru Cyrus Vesuvala, Former General Secretary of the NGO Migrant Workers Protection Society in Bahrain, underscored the important role played by civil society actors regarding victims' recovery and reintegration in society as they are often entrusted with the responsibility to provide the psycho-social support needed by victims. The importance of building cooperation networks between NGOs from countries of destination, transit and origin was underscored; especially when victims chose safe repatriation options. For an effective re-integration in the country of origin, it is necessary to educate victims about work opportunities in their home towns in order to reduce the incidence of re-trafficking usually linked to debt bondage. It is also necessary to provide them with vocational training to empower them and reduce their vulnerability. Moreover, NGOs are able to contribute to assessing whether safe repatriation can be considered as they can readily gather information on the victim's family and social context. Prevention is key to realizing guarantee of non-repetition which may become more convincing when former victims are involved in disseminating information on irregular migration and related risks but also educating the general population on matters such as the importance of identification documents. However, it remains challenging for victims of trafficking to achieve full recovery as financial constraints put a burden on the implementation of measures necessary for the full recovery of victims.

The Special Rapporteur reiterated that it is only through comprehensive assistance programs for rehabilitation that victims can be empowered into reintegrating into

communities and becoming themselves advocates to prevent the heinous crime of trafficking.

Dr. Mattar stressed that the draft Basic Principles would gain from specifically spelling out the important role played by civil society organization in realizing the right of victims to effective remedies; and further recalled that article 6 of the Palermo Protocol makes reference to these organizations.

Overview of discussion

Many delegates and participants expressed their support for the Special Rapporteur's initiative on the draft Basic Principles and welcomed it as both a normative and practical tool to provide support to victims. The representative from the Gulf Cooperation Council informed that this initiative was welcomed by member states of this organization and that the model law on trafficking could be improved by drawing inspiration from the Basic Principles.

States noted the importance of enhancing bilateral cooperation between countries of origin, transit and destination, in order to effectively assist victims of trafficking in a concerted fashion. In this regard, the question of shared responsibility to support victims of trafficking was raised as examples were provided where countries of origin have simply refused to receive the victims because of the stigma attached to their experiences or because it was judged that they were responsible for exposing themselves to trafficking by choosing to migrate irregularly. The lack of cooperation of countries of origin was also identified as a great obstacle to the delivery of identification papers for victims thus significantly impacting the whole restitution process.

Delegates also acknowledged the importance of developing cooperation with CSOs while providing effective remedies to victims, including through capacity building. Their role in making victims' identification more effective was also stressed as it was acknowledged that low identification rate was a major drawback in the fight against trafficking, especially in providing protection and assistance

On the issue of compensation, as in past consultations, delegates noted the need to make a clear distinction between the responsibility of the perpetrators and that of the State as the Draft Basic principles appear to equate them. Enhanced clarity and distinction between judicial and non-judicial compensation was also requested.

Delegates further noted the necessity to establish victims of trafficking funds financed by the confiscation of proceeds and assets of traffickers and ensure that these resources are directed towards assisting and supporting victims.

Some delegates informed about national efforts undertaken to enhance access to effective remedies for trafficked persons, including victims' support services, existing legislation and relevant changes made to their national regulatory frameworks, but also stressed the recurring challenges faced in implementing the existing provisions.

In her closing remarks, the Special Rapporteur thanked all participants and experts, and reiterated her call for substantive written inputs from member States in order to strengthen the Basic Principles, as a finalized version of the Principles will be submitted to the twentieth-sixth session of the Human Rights Council.

Agenda

**MENA Regional Consultation on the Right to an Effective Remedy
For Trafficked Persons**

Thursday, 9 January 2014, 09.00-16.30

Landmark Amman Hotel & Conference Center, Petra Hall, Al-Hussein Bin Ali Street, Amman, Jordan

- 09.00-09.30 Registration
- 09.30-10.00 **Opening Session**
- Welcoming Remarks*
- H.E. Mr. Ahmad Jamalieh, Secretary General of the Ministry of Justice,
Jordan
- Ms. Nada Darwazeh, Gender Adviser, OHCHR Middle East Regional
Office in Beirut
- Introduction and objectives of the consultation
chair*
- Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons,
especially women and children
- 10.00-11.00 **Overview of the international and regional legal frameworks and
initiatives on the right to an effective remedy**
- Jayne Huckerby, Associate Clinical Professor of Law and Director of the
International Human Rights Clinic, Duke University, School of Law
- Mr. Mohamed Mattar, Senior Research Professor of International Law
and the Executive Director of the Protection Project, the Johns Hopkins
University School of Advanced International Studies
- Discussion*
- 11:00-11:15 Coffee Break
- 11:15-13:00 **The Draft Basic Principles on the right to an effective remedy for
trafficked persons**
- Ms. Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons,
especially women and children

Discussion

Reparation and Compensation

Mr. Fayez Mohamed Hussein, Director, Legal Clinic , Alexandria University

Mr. Dweikat, Head of the Trafficking Unit, Jordanian Police Department

Discussion

13.00-14.15

Lunch

14.15-16.30

Procedural preconditions in realizing the right to effective remedies

Mr. Al Awdi Ahmed Mohsen, Member of the Yemen National Technical Committee to Combat Human Trafficking, Ministry of Information, Yemen

Ms. Lina Shabeeb, Director of the Public Awareness (street law) Clinic on Human Trafficking, Women's Rights and Fundamental and Constitutional Rights, University of Jordan

Restitution and Recovery (Rehabilitation)

Ms. Mehru Cyrus Vesuvala, Former General Secretary, Migrant Workers Protection Society, NGO

Discussion

Conclusions and recommendations

Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons, especially women and children

16:30-16:45

Coffee Break

The working language of the meeting will be English and Arabic with simultaneous interpretation in both languages.

ANNEX II.

Provisional List of Participants

**MENA Regional Consultation on the Right to an Effective Remedy
For Trafficked Persons**

Thursday, 9 January 2014, 09.00-16:30
Landmark Amman Hotel & Conference Center, Al-Hussein Bin Ali Street,
Amman, Jordan

Participants from States:

Mr. Abdelaziz Al Ameeri, counsellor, Embassy of The Kingdom of **Bahrain**

Mr. Salem Eltaieb, Head of the International Cooperation Section, Ministry of Justice, **Libya**

Mr. Mohamed Hamuda, Legal Adviser, Ministry of Justice, **Libya**

H.E. Mr. Rachid Sadiq Zebari, Minister Plenipotentiary, Embassy of the Republic of **Iraq** in Jordan

H.E. Mr. Ahmad Jamalieh, Secretary General of the Ministry of Justice, **Jordan**

Mr. Muhib Nimvat, Ministry of Justice, **Jordan**

Ossama Essa, Embassy of **Qatar** in Jordan

Mr. Hatem Al-Kayat, First Secretary of the Embassy of **Saudi Arabia** in Jordan

Mr. Sultan Aljawaied, **UAE**

H.E. Ambassador Hamad bin Rashid Al- Marri - Assistant Secretary-General for Legal Affairs, **Gulf Cooperation Council**

Professor Majed Saeed Al Marri, **Gulf Cooperation Council**

Panellists and speakers

Ms. Joy Ngozi Ezeilo, United Nations Special Rapporteur on trafficking in persons, especially women and children

Ms. Jayne Huckerby, Associate professor of clinical law, Duke University, School of Law, USA,

Mr. Mohamed Mattar, Senior Research Professor of International Law and the Executive Director of The Protection Project, The Johns Hopkins University School of Advanced International Studies, USA

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