

Submission by the Inter-agency Coordination Group against Trafficking in Persons (ICAT) to the co-facilitators of the high level meeting of the General Assembly on the Appraisal of the United Nations Global Plan of Action to Combat Trafficking in Persons (GPA)

The modalities resolution to the GPA appraisal process adopted on 4 May 2017, foreshadows the following consultations and outputs:

- a) a one day multi-stakeholder consultation no later than July 2017 (OP 9);
- b) two interactive panel discussions to take place at a High Level meeting of the General Assembly in September 2017 on Effective Partnerships for the Prevention and Prosecution of Trafficking (achievements, gaps and challenges) and Effective Partnerships for the Protection and Assistance of Victims (including through the UN Voluntary Trust Fund) – both taking into account the implementation of the SDGs (OP 3); and
- c) a short, concise Political Declaration on the implementation of the GPA (OP 10).

ICAT welcomes the inclusion of a multi-stakeholder meeting and Political Declaration to this appraisal process as well as the enhanced role for civil society as well as National Human Rights Institutions (NHIs). Tasked with ensuring coordination and coherence across the international system to facilitate a holistic and comprehensive approach to preventing and combating trafficking in persons, including protection and support for victims of trafficking, ICAT wishes to offer its support to the co-facilitators, in the process of appraising the GPA by providing the below suggestions and recommendations.

A. Appraising the Global Plan of Action to Combat Trafficking in Human Beings

The GPA is focused on the prevention of trafficking, the protection of and assistance to victims of trafficking, the prosecution of trafficking offences and on strengthening the partnerships necessary to combatting human trafficking. Conceptually, the GPA is broad enough to have relevance to any international discussion or action taken against trafficking in persons. While it includes action-oriented elements, it lacks however clear bases upon which States can collectively measure progress made under the GPA and ensure accountability. The regular appraisal of the GPA, on a four yearly basis, is an opportunity to reflect on existing gaps, both in implementation and scope, and consequently on the way forward in the fight against trafficking in persons.

The following questions might be considered in the appraisal process:

- (i) Knowledge:** how can the GPA contribute to increasing knowledge of trafficking in persons in general, and of the issues that might be prioritized in the Political Declaration, as detailed below;
- (ii) Impact:** how can the GPA assist with benchmarking progress made by States in combating trafficking in persons; and
- (iii) Coherency and consistency:** how can the GPA reflect, influence and support consistent and coherent action by all stakeholders including States, the UN and civil society in any anti- trafficking initiative?

Since the last appraisal of the GPA in 2013, ICAT has made significant contributions relevant to the above three questions by financing and preparing key issue papers that both elucidate and provide recommendations for addressing key challenges to combatting trafficking in persons today. These include the challenges of designing and evaluating counter-trafficking programs, of securing remedies for victims, in preventing trafficking for forced labour by addressing demand and in

applying a comprehensive legal framework.¹ Forthcoming concise and digestible issue briefs will assist States and other stakeholders to confidently respond to the distinct crimes distinguish trafficking in persons from the smuggling of migrants,² highlight the need for strengthened humanitarian responses to trafficking in crisis and conflict, explain the relationship between trafficking in persons and refugee status, clarify why understanding the gender dimensions of human trafficking are critical to preventing and responding to trafficking in women and girls, show how responses to trafficking may or may not be in the best interests of the child and how sustainable development goals (SDGs) targets related to trafficking in persons are interlinked and connected with the SDGs goals of the 2030 development agenda, and not only those where it is explicitly mentioned . Independently of ICAT, working group members are also advancing research and guidance on pernicious forms of exploitation such as organ trafficking (OHCHR) and forced marriage (UNODC).outline the manner in which trafficking cuts across a large number of the SDGs 2030, and not only those where it is explicitly mentioned.

B. ICAT Identified Priority Areas

In light of the above, ICAT has identified the following seven priority areas for consideration by the co-facilitators in preparing for the adoption of a Political Declaration on the implementation of the GPA.

1. Strengthening the Evidence Base and achieving the SDGs

a) to improve the existing framework

- *Shared and agreed indicators should be developed, in coordination with the Inter-Agency Expert Group on the SDGs which measure trafficking in persons, to track implementation and progress toward outcomes in a manageable and comprehensible manner.*
- *Encourage Member States to continually monitor their implementation of the GPA to provide a central national resource that would additionally mark progress against the multiple goals and targets of the 2030 development agenda related to trafficking in persons.*

b) to enhance existing action

- *Encourage Member States to utilize the ICAT Toolkit for Guidance in Designing and Evaluating Counter-Trafficking as a common framework for aligning activities , defining and assessing progress, and building a robust and shared evidence-base of effective anti-trafficking programs and practices.*
- *Collect sex disaggregated data on, monitor, and analyze trafficking and exploitation in conflict and humanitarian crises to strengthen the evidence base and inform advocacy, policy development, and programming.*

¹ All policy papers are available on the ICAT website at <http://icat.network/publications>

² See ICAT Issue Brief N#1 What is the Difference Between Smuggling and Trafficking? available at <http://icat.network/publications>

- *Improve data collection and analysis of trafficking for the purposes of organ removal and promote research widely.*
- *Gather longitudinal evidence on the situation of child and adult victims of trafficking who have been returned to their country of origin to inform evidence-based reintegration programming and minimize the risk of re-trafficking*
- *Ensure that data collection methods used to monitor and analyse trafficking in persons are age and gender-disaggregated and that rigorous standards on handling information and protection of personal data are in place and respected in order to ensure victims' safety.*
- *Request ICAT to map and analyse definitional issues (modern slavery, forced labour, trafficking in persons), and to develop agreed methods for data collection*
- *Request ICAT to compile and develop sets of indicators of trafficking relevant to different and specific contexts.*

1. Trafficking in Persons in the Context of Conflict and Humanitarian Settings

a) to improve the existing framework

- *Develop international standards and guidelines on anti-trafficking measures in humanitarian crises and post-crisis settings, building upon the existing international criminal, human rights, humanitarian, labour and refugee standards and norms. Train humanitarian actors on these standards and guidelines to ensure a system-wide response to trafficking and exploitation in humanitarian action.*

b) to enhance existing action

- *Adopt a human rights multi-disciplinary approach to address human trafficking during conflicts and other humanitarian emergencies such as natural disasters; ensure that addressing trafficking in persons is an integral component of humanitarian preparedness and response, especially as concerns the protection and recovery of victims – including through the strengthening of national systems where appropriate.*
- *Any preparedness, response and recovery strategies to address trafficking in persons in conflict and other humanitarian settings must have viable and clearly communicated mechanisms to ensure the accountability to affected populations as well as communication and engagement of community-based actors as appropriate.*
- *Raise awareness about human trafficking risks, responses and referral pathways available among the crisis-affected populations in the country of crisis, including opportunities for planned relocation, safe legal pathways for migration and humanitarian admission to a third country.*

2. Responses to the Trafficking of Refugees and Migrants

a) to improve the existing framework

- *States should enhance the availability of safe regular migration and admission pathways, and ensure that they are well known and targeted to would-be migrants or refugees in a manner that counters the strong, culturally relevant narrative of smugglers.*
- *Ensure that international legal distinctions between trafficking in persons and smuggling of migrants are not conflated, while upholding the protection and assistance standards applicable to smuggled migrants and that all are clear in national laws and policies*
- *Encourage States to consider utilizing a relatively low threshold in defining presumed victims of trafficking in persons, entitling an individual to basic services and assistance, before government-established guidelines are applied for a fuller investigation and determination of status.*

b) to enhance existing action

- *States have obligations to prevent persons on their jurisdiction from falling victim to trafficking in the first place, including third country nationals with an irregular status. This can be done by taking steps to protect the places where asylum-seekers and refugees have sought safety (camps, reception centers, hot spots or urban settlements) and where migrants reside, by providing child-friendly, gender-sensitive and accessible information to all non-nationals on how seek assistance without risking detention or deportation, to report trafficking, by having fair, efficient and human rights compliant asylum and immigration procedures in place, and by making available appropriate livelihood and educational opportunities to such persons for the duration of their stay, for example.*
- *To ensure that international protection and solutions are available to victims of trafficking who need it, including those who flee armed conflict and violence, refugee decision-makers need to be capacitated to identify claims for refugee status that are linked to trafficking and when to refer victims of trafficking who are refugees for resettlement.*
- *National procedures for the protection of victims of trafficking, children and asylum-seekers should be linked. This can be achieved through the use of a national referral system with standard operating procedures, and related capacity-building and training actions.*
- *Trafficked persons who are not eligible for refugee status, should be given temporary residence de-linked from their participation in criminal proceedings in order to recover and rehabilitate and should be considered for permanent residence and local integration programs on humanitarian or compassionate grounds, where appropriate.*
- *The return or repatriation of a victim of trafficking will not be suitable where there is a risk that a person would be re-trafficked on return, or where their return would not be safe and sustainable (upholding the principle of non-refoulement).*

3. Responses to the Trafficking of Children

a) to improve the existing framework

- *Incorporate the Convention on the Rights of the Child in a full and robust manner, into national law.*

b) to add to or enhance existing action

- *Accelerate family tracing and reunification procedures and enhance cross-border information exchange to this end for all children up to 18 years of age.*
- *Strengthen national child protection systems in origin, transit and destination countries so that they are able to effectively prevent, identify, refer and address cases of child trafficking, violence, abuse and exploitation.*
- *Migrant, internally displaced, asylum-seeker and refugee children need to be explicitly covered by national child protection systems. Invest in early identification and assistance of trafficked and exploited children, linking up various sectors, along migratory routes.*
- *Strengthen social outreach work to monitor the situation of children who live in situations of particular marginalization and vulnerability.*
- *Ensure that appropriate guardians are appointed to unaccompanied and separated children rapidly upon identification*
- *Clearly identify the different risks that girls and boys have to falling victims of trafficking and ensure they are incorporated in all actions to prevent and respond to trafficking of children*
- *Ensure that the right to be heard is consistently afforded to all children, regardless of age and status. This includes during criminal proceedings, through establishing child and gender sensitive reporting and complaint mechanisms and through participatory best interest assessments (BIA) or best interest determinations (BID).*
- *Provide child survivors of trafficking needs with long-term support, including access to alternative care, as well as education, training and vocational skills to foster social inclusion, guided by an individual assessment of the child's best interest.*
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- *Child survivors of trafficking should only be returned to their country of origin if it is in their best interests and is accompanied by reintegration support.*

4. Responses to the Trafficking of Women and Girls

- a) to improve the existing framework
 - *Ensure that laws, policies and programs to prevent and respond to trafficking are gender sensitive and in compliance with international human rights law*
- b) to enhance existing action
 - *Consider root causes or risk factors of trafficking in persons, such as gender-based discrimination, gendered social norms and associated expectations and gender inequality when designing and implementing trafficking prevention strategies*
 - *Invest in quality, confidential, gender-sensitive and survivor-centered services*

5. Aligning the business Sector with Combatting Trafficking in Persons

a) to enhance existing action

- *Establish clear criteria for the official registration of recruitment and work placement agencies, and monitor the activities of such agencies in an effort to prevent all forms of trafficking in persons*
- *Support and promote ethical business practices, such as by;*
 - *Implementing codes of conduct that address the protection of the human rights and fundamental freedoms of workers throughout the supply chain;*
 - *Providing accessible complaint mechanisms and relevant information for workers to notify the authorities on abusive practices*
- *Support multi-stakeholder initiatives to prevent trafficking in persons in supply chains that, in particular:*
 - *Serve as a clearing house for data, information and mapping of supply chains;*
 - *identify current gaps in policy and practice, provide guidance on best practices and on the efficacy of various stakeholder approaches to enforcement;*
 - *apply principles of due diligence and transparency in assessing and addressing risks of exploitation throughout supply chains and ensuring that workers have access to gender sensitive mechanisms for the redress and remedy of abusive practices.*
- *Develop and implement policies and actions, including law enforcement co-operation between member States, to prevent the tourism industry from being used for all forms of trafficking in human beings, in particular for sexual exploitation of children*
- *Encourage Member States to consider incorporating standards on ethical sourcing in public procurement of goods and services, and to disseminate and implement the United Nations Guiding Principles on Business and Human Rights*

6. Trafficking For the Purposes of Organ Removal (TPOR)

a) to improve the existing framework

- Criminalize all forms of TPOR in national legislation and consider the confiscation of the instruments and proceeds of TPOR offences.
- Make better use of the Organized Crime Convention and the Trafficking in Persons Protocol in combating trafficking in persons for the purpose of removal of organs, especially for joint investigations and intelligence gathering.

b) to add to or enhance existing action

- Develop international guidelines on the human rights based approach to addressing this specific form of trafficking, given its nature and health ramifications.

- Raise awareness of the issue and the address the root causes and contributing factors contributing to this form of trafficking, and the risks of selling and buying organs;
- Raise awareness of the role of private businesses in TPRO, discourage their involvement and encourage their reporting.
- Raise awareness of various aspects of TPOR, the legal prohibitions on commercial donations, the health and social risks of organ donation, and the existing experience with altruistic and deceased organ donations;
- Improve data collection and analysis on TPOR and promote research among disperse fields, such as medical, health management, cultural anthropology, and anti-trafficking community;
- Address victim's rights and needs, and ensure that all support measures are non-discriminatory, gender, age and culturally sensitive, in line with international human rights standards.

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