

## NON GOVERNMENTAL ORGANIZATIONS (NGO) JOINT STATEMENT

### Fifth Session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (CTOC/COP 5)

18 October 2010

Mme President, Distinguished Chairman, Distinguished Delegates, fellow members of civil society,  
Ladies and Gentlemen,

NGOs working with and on behalf of those affected by issues covered by the UN Convention against Transnational Organised Crime and the Protocols thereto (UNTOC), including trafficked persons, migrants and those affected by the illicit trade in firearms, jointly mark the 10<sup>th</sup> Anniversary of this landmark convention. The Convention and most of its protocols have now been widely ratified and many countries have developed relevant national legislation. However, we are concerned that momentum to implement the Convention and its protocols is waning and believe that in order to achieve UNTOC's aims there is a pressing need to reinvigorate this treaty by assessing successes and limitations in its implementation:

In reference to **transnational organised crime**, illegal assets belonging to organized criminal groups must be confiscated and redistributed through community projects and activities. Further, endemic official corruption, which reinforces and promotes links between criminal activities such as terrorism and drug trafficking, must be acknowledged and addressed to reduce such crimes. In the field of emerging crimes, particularly cyber crime, we urge all States to promote a culture of cyber security in close cooperation with civil society and the private sector, and stress that in doing so particular attention must be paid to avoid measures which discriminate against vulnerable groups especially migrants.

In relation to **Trafficking in Persons**, progress in promulgating dedicated human trafficking legislation in many countries worldwide has been made and we congratulate those States which have succeeded in adopting legislation that is victim-centred in design as well as implementation. However, we are concerned that such states are the minority; too often anti-trafficking legislation is not drafted with trafficked persons in mind. Only through victim-centred anti-trafficking initiatives can states successfully combat trafficking, punish traffickers and offer victims appropriate assistance, redress or remedy. The legal framework outlined in the Human Trafficking Protocol acknowledges the primacy of human rights in all anti-trafficking initiatives; we stress that rights must be integral to anti-trafficking legal frameworks rather than supplementary or conditional. Furthermore comprehensive rights based training programmes must be devised for officials tasked with implementing such frameworks. Whilst we welcome the recent interest in human trafficking shown by states at the UN General Assembly resulting in the UN Global Plan of Action to Combat Trafficking we note that such grand international gestures are meaningless and at worst detrimental to efforts to combat human trafficking, without associated

inclusive and transparent mechanisms to evaluate and review their implementation. A recent review of anti-trafficking initiatives worldwide found that of 15 projects evaluated not one included trafficked persons in its evaluation, this gap shows in the implementation of UNTOC which desperately lacks the expert advice trafficked persons can offer to facilitate its implementation. We urge states to ensure that all anti-trafficking responses are victim-centred.

**On the smuggling of migrants** we emphasise articles 2 and 5 of the Protocol which address the rights of smuggled migrants and the freedom from criminalisation of those who have been victims of smuggling criminal offences. We note that this treaty must be implemented in tandem with the core human rights treaties to which States are also parties, and emphasise that issues of sovereignty must not obscure the exercise of human rights of migrants. In light of this, we are deeply concerned that countless migrants continue to be criminalised and subjected to cruel and inhumane treatment despite their victim status and emphasize the need to protect those exploited in the migration process under the terms of this Protocol. In particular, we deplore the recent murder by organized crime of 72 smuggled migrants in Mexico, and recognize the efforts of the Mexican government to bring to justice the seven alleged perpetrators of these outrageous acts and welcome the subsequent amendment of Article 67 of the General Population Law in the country as a step forward in relation to understanding the problems considered in this Protocol. It is imperative that no more migrants pay the price of their lives as an impetus for States to recognise the need to offer them requisite access to justice and protections from inhuman treatment and exploitation. We urge parties to this treaty to protect, respect and uphold all migrant rights regardless of their legal status and in particular to put in place all necessary measures in order to prevent violations of their rights.

We emphasise the importance of the **Firearms protocol** as an essential tool in curbing the spread of illicit weapons and reducing their harmful impact on individuals and communities. We urge those States that have not yet done so to ratify this important Protocol and emphasize the need for further implementation in line with the obligations of the Protocol including regulating the manufacturing, marking, record-keeping, and international transfer of firearms, their parts and components and ammunition and criminalising illicit manufacturing and trafficking. To this end, we encourage States to utilize the UNODC Model Law to strengthen their national law in a manner consistent with the Protocol.

**Mme President**, 10 years of discussions on best practices has done little to raise awareness of deficiencies and gaps in implementation of UNTOC: Crimes remain undetected, victims unidentified or worse re-victimised, and criminals operate with impunity. Victims of crimes covered by UNTOC are losing hope that States Parties to the Convention are truly committed to its objectives. Just as victims no longer believe that they will gain restitution for the crimes committed against them, perpetrators are seizing opportunities to act with impunity as they see the momentum has been lost to tackle these horrific criminal offences.

This loss of momentum to implement UNTOC lies in the failure to develop an effective review mechanism to move the treaty from theory into practice. As 2 years of discussions on possible mechanisms to review implementation of UNTOC now reach their conclusions, States Parties must not only on draw on lessons from the work of the UNCAC IRG, but also examples from regional review

mechanisms and the human rights treaty bodies. This process must be expedited if UNTOC is to meet its objective of combating transnational organised crime.

**We call on States Parties to UNTOC and its protocols to:**

Establish a victim-centred review mechanism to UNTOC at this conference of parties, which is both inclusive and comprehensive involving all stakeholders in UNTOC, including implementing partners in the Convention.

In particular we strongly believe, at a minimum, the following principles must be included in any review mechanism established:

1. An Independent, Gender balanced, geographically representative Expert Monitoring Body comprised of representatives selected for their knowledge in the areas covered by UNTOC;
2. Consultation with victims of crimes covered by UNTOC, such groups have valuable knowledge about UNTOC's implementation and impact, making them essential contributors to any monitoring process.
3. Thematic review comprising a wide range of data sources – disaggregated data must be collected both on the extent to which states are implementing UNTOC and how effectively implementation is meeting the overall aims of the Convention;
4. A comprehensive and transparent reporting and follow-up mechanism that incorporates a human-rights based approach and takes into account impact on vulnerable groups; and
5. Assured funding.

The review must not be limited to thematic overviews but ensure an indepth country by country analysis which will ensure progress in implementation.

Mme President,

Victims, their service providers and advocates have been waiting for 10 years to see change in this area and yet the crimes covered in UNTOC continue to destroy the lives of countless victims worldwide. We urge all States Parties to UNTOC to establish a review mechanism at this Conference of Parties before we let 10 more years pass by without real international commitment to combat transnational organised crime.

## **NGOs associated with the Statement**

### **International**

- Academic Council on the United Nations System, ACUNS
- Access Info Europe
- African Action on AIDS
- Defence for Children International, DCI
- Global Alliance Against Traffic in Women, GAATW
- International Commission of Catholic Prison
- Pastoral Care, ICCPPC
- International Council of Women
- International Federation of University Women
- International Action Network on Small Arms, IANSA
- International Police Association
- International Real Estate Federation, FIABCI
- International Society for Traumatic Stress Studies, ISTSS
- Lawyers Without Borders
- National Council of German Women's Organizations
- Pax Romana
- Soroptimist International
- The Salvation Army
- Women's Federation for World Peace International
- World Society of Victimology
- Congregation of Our Lady of Charity of the Good Shepherd
- International Federation of Business and Professional Women
- International Association of Democratic Lawyers

### **Australia**

The Anti Slavery Project

### **Brazil**

- Instituto Latinoamericano de Promocao e Defesa dos Direitos Humanos, ILADH
- Instituto Estudos Direito e Cidadania, IEDC

### **Bulgaria**

Institute of Conflict Resolution

### **Cambodia**

Legal Support for Children and Women, LSCW

### **France**

Together Against Cyber Crime, TAC

### **Germany**

National Council of German Women's Organizations

### **Hong Kong**

- Association of Indonesian Migrant Workers in Hong Kong

### **India**

- Peace Campaign Group, PCG
- Durbar Mahila Samanawya Committee, DMSC

### **Israel**

Kav LaOved - Protection of Workers' Rights

### **Italy**

LIBERA - Associazioni, nomi e numeri contro le mafia

### **Malaysia**

Tenaganita

**Macau Special Administrative Region of the People's Republic of China**

Organization of the Families of Asia and the Pacific, OFAP

**Nepal**

-Women's Rehabilitation Centre, WOREC  
-Alliance Against Trafficking in Women and Children in Nepal, AATWIN

**Netherlands**

-Bonded Labour in the Netherlands, BLinN  
-Dutch Foundation of Religious against Trafficking in Women, SRTV

**Nigeria**

- Youth Crime Watch  
- Youth Enhancement Organization  
- Women Trafficking and Child Labour Eradication Foundation, WOTCLEF

**Pakistan**

-URDO Pakistan  
-Pakistan Rural Workers Social Welfare Organization, PRWSWO  
-NGOs Computer Literacy Shelter Welfare Rawalpindi

**Russia**

The Centre for Assistance to Victims of Violence and Human Trafficking

**Serbia**

ASTRA-Anti trafficking Action

**Uganda**

Uganda Youth Development Link