



Statement for the Constructive Dialogue on Smuggling of Migrants

By Gerson Nozea

In the early 2000s, member States gathered in UN conference halls and board rooms to negotiate what would become the first global legally binding instrument with an agreed definition of trafficking in persons and the smuggling of migrants (United Nations Convention against Transnational Organized Crime). While these negotiations were ongoing, Stephanie Freed, the Founder and CEO of Rapha International, was on research trips abroad where she witnessed the atrocity of young girls being sold to be sexually exploited. She was a young American woman and a mom. As she identified children who were affected by this heinous crime, she began to leverage resources to support local law enforcement and government agencies in under-resourced countries to rescue and provide aftercare services for survivors.

In 2003, the same year the United Nations Convention against Transnational Organized Crime entered into force, Rapha International opened its first center to further support local authorities to combat this crime. Rapha is now present in multiple countries, assisting victims, communities, and law enforcement agencies. Rapha has since contributed to the prosecution of several *cases of trafficking in persons*, and has provided assistance to thousands of survivors and at-risk children, women, and families in vulnerable communities.

While human trafficking persists as a domestic threat to vulnerable populations, the uptick in smuggling of migrants by criminal actors has brought new challenges to the implementation of UNTOC and its protocols. In recent years, Rapha has witnessed a migratory influx triggered by conflicts, prolonged political instability, and depleted economic resources. This uptick in mass migration has quickly outpaced government capacities in transit and destination countries.

Rapha has also witnessed multiplied efforts by Member States to adopt more effective policies to address the smuggling of migrants both in domestic and transnational contexts based on the UNTOC convention. Often these policies lack the backing of implementation mechanisms, and human and financial resources. For instance, the results of a country-specific research conducted this year by a human rights organization indicates a staggering gap in knowledge of the law and policies pertaining to trafficking in persons and the smuggling of migrants among the judiciary in that country, including judges and prosecutors.

- In this research, 42% of the judges surveyed had never heard of the law on trafficking in persons and the smuggling of migrants.
- 60% of civil court clerks reported not having any knowledge the law and among those who asserted knowledge of the law, 80% could not state which acts are criminalized under that law;
- 65% of the lawyers interviewed affirmed that they have never heard of the law and 100% of them stated they do not have knowledge of the infractions covered by this law;
- 80% of the police officers interviewed contended they knew about the law, but 100% of these surveyed police officers were not familiar with its provisions.

The aforementioned dearth of knowledge of laws and policies in the judicial system in that country is of great concern because it can lead to the stigmatization and criminalization of victims rather than the prosecution of perpetrators.

Rural border communities that often serve as hubs for smugglers lack the law enforcement and judicial capacity to deal with the smuggling of migrants. Nor do these communities have the human and financial resources to address growing numbers of migrants transiting or settling within their territory.

The knowledge gaps in legal instruments and policy among judiciaries should be assessed widely and redressed according to each jurisdiction's weaknesses. Also the deployment of material and human resources into border communities should be considered a strategic policy worth pursuing to respond to the mass migration crisis that proliferates the smuggling of migrants.