

Constructive dialogue on the review process in accordance with paragraph 53 of the Procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocols thereto

Summary by the Chair

I. Introduction

1. At its ninth session, in October 2018, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime established the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto¹ through Conference resolution 9/1, which included in its annex the procedures and rules for the functioning of the UNTOC review mechanism.

2. According to paragraph 53 of the procedures and rules for the functioning of the UNTOC review mechanism and in accordance with article 32, paragraph 3 (c), of the Organized Crime Convention, constructive dialogues with relevant stakeholders, including non-governmental organizations, will be convened as a regular practice, following the conclusion of the sessions of the working groups and the adoption of the reports. The constructive dialogues aim to promote fruitful engagement with relevant stakeholders. They allow for briefing participants on the development and outcomes of the review process, and for collecting inputs and suggestions from participants, including their contributions on ways to improve the implementation of the Convention and the Protocols thereto.

3. The constructive dialogue held after the conclusion of the twelfth session of the Working Group on Trafficking in Persons, on 1 July 2022, was co-chaired by the co-Chairs of the Working Group, H.E. Madam Ambassador Esther Monterrubio Villar and Ms. Patt Prugh.

4. Sixty non-governmental organizations (NGOs) and 11 other relevant stakeholders (nine from the academia and two from the private sector) participated in the constructive dialogue. Written comments that were received from participating NGOs were made available on the website of the mechanism: (<https://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/constructive-dialogues.html>).

5. This document presents the summary of discussions at the above-mentioned constructive dialogue prepared by the co-Chairs of the twelfth session of the Working Group.

II. Opening

6. The co-Chairs delivered introductory remarks, expressing their confidence that the UNTOC review mechanism will greatly benefit from the

¹ Hereinafter: UNTOC review mechanism.

contributions of all relevant stakeholders, including civil society, academia and the private sector.

III. Briefing on the developments and outcomes of the review process

7. Under agenda item 2, the secretariat shared an overview of the status of the review process, which had been launched in October 2020 through conference resolution 10/1, after a two-year preparatory phase. A status report on the progress of the UNTOC review mechanism had also been shared with the Working Group in form of a conference room paper (CTOC/COP/WG.6/2022/CRP.1). The overview also included information on the support provided by UNODC to States parties in the review process and to non-governmental stakeholders.

IV. Panel on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked, including as it related to victim services

8. The discussion under agenda item 3 was facilitated by the representative of ASTRA-Anti Trafficking Action, who stressed the need for a more effective criminalization of the perpetrators of trafficking in persons worldwide by establishing and implementing solid legal frameworks. The importance of strengthening the implementation of the non-punishment principle for victims of trafficking who have been forced to commit offences, that gives room to flexibility, sensitivity and full understanding of the circumstances that led the victim to commit a crime while in the trafficking chain, was also underscored.

9. The panelist proposed three concrete recommendations: 1) States should exempt victims of trafficking from punishment in their criminal justice systems and practices, and reflected this principle not only at the level of policy guidelines and recommendations, but also at the level of laws to effectively protect victims of trafficking, in line with international law; 2) States should ensure the performance of early screenings by first responders such as police and medical staff to identify trafficking victims, including among suspected offenders, and develop appropriate indicators to this effect; 3) Victims of trafficking should have unconditional access to medical, psychological and social assistance, including when suspected of, or convicted for, criminal offences they may have committed while being trafficked.

10. Following the presentation, participants posed questions on specific challenges related to the development of screening indicators, such as the differences among criminal justice systems.

11. The importance of building a stronger collaboration between civil society organizations and Member States in tackling trafficking in persons was repeatedly highlighted by speakers. Subsequently, the co-Chair referred to the Nelson Mandela rules as a good example of guidelines developed as a joint effort by Member States and the civil society.

12. Some speakers expressed their concerns about the misuse of the cyberspace by traffickers. Other speakers also highlighted the importance of developing knowledge on the cyber domain to allow for more effective responses to trafficking in persons.

13. One speaker referred to the need for appropriate criminal justice responses to victims who have been compelled to commit offenses as a result of their being trafficked to be appropriately tailored.

V. Panel discussion on how civil society contributes to joint or parallel investigations and specialized prosecutions or otherwise supports law enforcement efforts to investigate and prosecute trafficking in persons cases

14. The discussion under agenda item 4 was facilitated by the representative of the NGO Hope for Justice. The panelist shared the story of a support worker who was able to identify a victim of human trafficking after having participated in a training provided by Hope for Justice. Furthermore, she underlined the key role that civil society organizations can play in contributing to the delivery of training for criminal justice actors, as well as in supporting intelligence gathering efforts.

15. The panelist shared the following concrete recommendations: 1) The participation of civil society organizations should be fostered in the building of capacity of criminal justice practitioners as well as to ensure that responses for trafficking victims at every stage of the criminal justice continuum are victim-centered, trauma-informed and human-rights based; 2) States should consider creating safe intelligence sharing channels among law enforcement agencies, civil society organizations and communities to strengthen responses to crime, including human trafficking, and embrace the potential of community-based programmes to empower local community members; 3) Independent, long term and holistic support should always be provided to victims, and not be conditional on their cooperation with criminal investigations.

16. Following the panelist's presentation, the floor was opened for an exchange of additional information.

17. Several speakers mentioned the role of NGOs in effectively contributing to investigations conducted by law enforcement agencies, as well as in supporting trafficking victims through counseling services. Moreover, the key role played by NGOs in supporting the challenging process of building trust of victims, as well as of their families, was highlighted by some speakers.

VI. Observations from participants related to the review of implementation of the Trafficking in Persons Protocol, and the supporting role played by civil society, including, inter alia, through the provision of activities meeting technical assistance needs (para 53 (i) and (j) of the Procedures and Rules for the functioning of the

mechanism for the Review of the Implementation of UNTOC

18. The discussion under agenda item 5 was facilitated by the representative of the University Alliance on Human Trafficking. The panelist shared her personal experience as a survivor of child trafficking, and stressed the importance of providing children and women with assistance tailored to their needs. Moreover, she called upon States to give paramount importance to addressing the psychological impact trafficking has on its victims, such as the trauma they experience. The importance of enhancing partnerships with universities, as well as corporations, in the context of combatting human trafficking was also highlighted.

19. Subsequently, under the same agenda item, the Chair opened the floor to the participants for the collection of inputs and suggestions, including their contributions on ways to improve the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, and the provision of information on relevant activities, including those related to meeting technical assistance needs.

20. Many speakers expressed their appreciation for the momentum created by the constructive dialogues, and shared their high expectations for the process to provide a fruitful platform for exchange of expertise, and to hear survivor's voices.

21. One speaker highlighted the importance of ensuring a broad participation of non-governmental stakeholders in the constructive dialogues and the need for inclusivity in the process. Furthermore, he expressed reservation against the objection that had been made by two States parties against the participation of three non-governmental organizations.

22. In the discussion that followed under the same agenda item, several speakers called upon States Parties to facilitate and expand effective partnerships and cooperation between relevant stakeholders in preventing and combating trafficking in persons, especially in relation to the design and implementation of trafficking in persons-related prevention measures, with a particular focus on vulnerable groups, as well as to the delivery of training to law enforcement, prosecutors and judges.

23. Some speakers highlighted the importance of adopting holistic, multidisciplinary and community-based approaches in assisting and protecting victims of human trafficking. One speaker underscored the key role that religious leaders can play in this regard. Moreover, the need to develop guidelines for interviewers on how to provide psychological support while conducting interviews with victims of trafficking was underscored by one speaker.

24. The importance of adopting a victim-centered and human rights-based approach in protecting identified trafficking victims, as well as in developing relevant policies and practices, including as a way to uphold the rights of victims of trafficking in persons and to avoid their revictimization, was highlighted by several speakers. Moreover, one speaker mentioned how the lack of recognition of the status of victim might represent an obstacle to their re-integration into societies. The importance of allowing and assisting migrant victims of trafficking to return to their country of origin on a voluntary basis was also underscored by one speaker. Another speaker called upon States to provide social safety nets through social protection schemes for families vulnerable to having one or more of their members trafficked.

25. Several speakers highlighted the serious challenges posed to the actual application of the non-punishment principle for victims of trafficking who had committed offences while being trafficked.
26. Two speakers highlighted the importance of addressing the root causes and drivers of human trafficking.
27. The relevance of the Blue Heart Campaign against Human Trafficking, an awareness-raising campaign, was underscored by one speaker. Moreover, another speaker recognized the importance of the UNODC Global Report of Trafficking in Persons that provides a regular overview of the trafficking trends and States' responses to this crime.
28. The challenges posed by technologies enabling trafficking in persons, especially child trafficking, was highlighted by one speaker. In this regard, another speaker mentioned the need for improving safety standards in cyberspace and in the digital services. Moreover, one speaker also stressed the links between trafficking in persons and corruption and the need to address them.
29. One speaker called upon States to consult with civil society organizations more consistently while completing the self-assessment questionnaire of the UNTOC Review Mechanism. The speaker also expressed his availability to provide data, knowledge and expertise to further enhance government efforts to tackle transnational organized crime.
30. One speaker highlighted the need for States to ensure long term assistance to victims of trafficking by providing a full package of reintegration assistance tailored to specific needs.
31. The co-Chairs thanked the participants for their valuable inputs and constructive exchange of views. The co-Chairs also called for a continued broad participation of non-governmental stakeholders in constructive dialogues and emphasized their key role in facilitating the progress of the review mechanism through sharing of experiences and suggestions in a constructive manner, thus enriching the discussions to the benefits of the entire review process and to ultimately strengthen the implementation of the United Nations Convention against Transnational Organized Crime and its Protocols thereto.
