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### Preparation Paper:

#### **United Nations Office on Drugs and Crime (UNODC)**

Simulating a Meeting of the Commission on Crime Prevention and Criminal Justice (CCPCJ)

#### **“Human Trafficking and Migrant Smuggling”**

## **Human Trafficking**

The United Nations Office on Drugs and Crime (UNODC) states that human trafficking is a crime against humanity. In more detail, it says that it "involves an act of recruiting, transporting, transferring, harbouring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them." According to the factsheet of the International Labour Organisation from 2007, an estimated 2.5 million people from 161 countries are in forced labour at any given time as a result of human trafficking.

The most important legal document on human trafficking is the "Protocol to Prevent, Suppress and Punish Trafficking in Persons," which is also commonly known as the "Trafficking Protocol." It was attached to the "United Nations Convention against Transnational Organised Crime," which was adopted by the General Assembly resolution 55/25 of 15 November 2000. The Trafficking Protocol was registered on 25 December 2003 and was signed and ratified by 147 states up until now.

Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines "trafficking in persons as the recruitment, use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs, transportation, transfer, harbouring or receipt of persons by means of threat."

This definition was provided to raise the global awareness, and it implies that human trafficking is based on three key elements, which would have to be criminalized in domestic legislations in order to combat this crime. The key elements that should be focused on are the **act** of trafficking in persons (recruitment, transportation, transfer, harbouring or receipt of persons), the **means** (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim), and the **purpose** (exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs).

It is hard to narrow down the issue of human trafficking to certain regions or countries and to assess the actual size of this crime since most incidences are not officially recorded. Based on current estimates, more than 2.5 million victims are affected by human trafficking today. The most commonly identified form of human trafficking is sexual exploitation (with approximately 79%).

UNODC's strategic response to trafficking in persons is built on four different pillars:

1. **Prevention** of trafficking in persons;
2. **Protection** of the victims, with full respect for their human rights;
3. **Prosecution** of traffickers and to uphold justice for its victims;
4. **Promotion** of the cooperation among states, parties, and other stakeholders in order to meet those objectives

Furthermore, the UNODC also regards research and awareness raising, promotion of the protocols and capacity-building, and strengthening of partnership and coordination as crucial points in combating this crime.

## **Migrant Smuggling**

Migrant smuggling is defined as the illegal transfer of people across international borders, similar to drug or weapon smuggling. Hence, migrant smuggling stands in conjunction with illegal migration. It involves financial or other benefits for illegal entry of a person into a state of which that person is not a national or resident. Smugglers normally receive high transportation fees. In order to afford these high bribes, migrants often have to dispose their belongings and even family members. The conditions of smuggling are highly dangerous and often consist of life-threatening risks. Migrant smuggling affects almost every country in the

world either as origin, transit, or destination country. It undermines the integrity of countries and communities and costs thousands of people their lives every year.

The most important legal document in the fight against international organised crime such as migrant smuggling is the United Nations Convention against Transnational Organised Crime. Its 3rd Protocol, "Against the Smuggling of Migrants by Land, Sea and Air" (also commonly known as the Smuggling of Migrants Protocol) is especially meaningful for our topic. Article 3 of the Protocol contains legal definitions of the most important terms related to migrant smuggling:

- (a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident;
- (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving state;
- (c) "Fraudulent travel or identity document" shall mean any travel or identity document:
  - (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a state; or
  - (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
  - (iii) That is being used by a person other than the rightful holder;
- (d) "Vessel" shall mean any type of water craft, including non- displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a government and used, for the time being, only on government non-commercial service.

According to Article 6 of the Smuggling of Migrants Protocol, every state has to criminalize the acts of smuggling migrants and enabling a person to remain in a country illegally. Also the states have to prosecute circumstances that endanger lives or safety, or inhere inhuman or degrading treatment of migrants. An accurate or reliable number of people that are smuggled each year is not available as many smuggling operations go unnoticed or fail with the result of many unknown deaths. However estimated numbers tell us that in 2005 more than 350,000 illegal immigrants were smuggled across the American border from Mexico and around 800,000 entered the European Union. In 2004, 464 recorded deaths took place during the crossing from Mexico to the United States and an estimated number of 2000 people drowned on their journey from Africa to Europe across the Mediterranean Sea. Smuggling fees have risen severely over the last decade due to rising demand and greater complexity of operations. A border crossing from Mexico to the United States costs up to \$4,000, whereas a Chinese immigrant to the United States pays up to \$75,000.

So far, efforts against migrant smuggling have mostly focused on the prosecution and deportation of individual migrants while little has been done to uncover the organisations behind the business of migrant smuggling. UNODC's primary goal is to promote global adherence to the Smuggling of Migrants Protocol and to assist states in their efforts to effectively implement it. The protocol aims to:

- Prevent and combat the smuggling of migrants
- Protect the rights of smuggled migrants
- Promote cooperation between states

In providing technical assistance towards achieving these goals globally, UNODC's response is focused on two working areas:

- Assisting states in bringing their legislation in line with the protocol, and
- Assisting states in developing an effective criminal justice response to migrant smuggling

## **Further readings**

### **Human Trafficking**

Human trafficking FAQ by UNODC

<http://www.unodc.org/unodc/en/human-trafficking/faqs.html>

Main UNODC page on human trafficking

<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menuinside>

UNODC latest publications on human trafficking  
<http://www.unodc.org/unodc/en/human-trafficking/publications.html>

Human trafficking facts by UN.GIFT  
[http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/HUMAN\\_TRAFFICKING\\_-\\_THE\\_FACTS\\_-\\_final.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/HUMAN_TRAFFICKING_-_THE_FACTS_-_final.pdf)

United Nations Convention against Transnational Organised Crime  
<http://www.unodc.org/unodc/en/treaties/CTOC/>

Protocol to Prevent, Suppress and Punish Trafficking in Persons  
[www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_traff_eng.pdf)

55/25 Resolution adopted by the General Assembly  
[http://www.unodc.org/pdf/crime/a\\_res\\_55/res5525e.pdf](http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf)

General overview and statistics on Wikipedia  
[http://en.wikipedia.org/wiki/Human\\_trafficking](http://en.wikipedia.org/wiki/Human_trafficking)

United Nations Treaty Collection on the Trafficking Protocol  
[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en)

humantrafficking.org  
<http://www.humantrafficking.org>

UNODC's Comprehensive Strategy to Combat Trafficking in Persons and Smuggling of Migrants  
[http://www.unodc.org/documents/human-trafficking/UNODC\\_Strategy\\_on\\_Human\\_Trafficking\\_and\\_Migrant\\_Smuggling.pdf](http://www.unodc.org/documents/human-trafficking/UNODC_Strategy_on_Human_Trafficking_and_Migrant_Smuggling.pdf)

Action against transnational organised crime and illicit trafficking, including drug trafficking (from page 45)  
[http://www.unodc.org/documents/commissions/WG-GOVandFIN/Thematic\\_Programme\\_on\\_Organised\\_Crime\\_-\\_Final.pdf](http://www.unodc.org/documents/commissions/WG-GOVandFIN/Thematic_Programme_on_Organised_Crime_-_Final.pdf)

## **Migrant Smuggling**

UNODC on migrant smuggling  
<http://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html>

United Nations Convention against Transnational Organised Crime  
<http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

Wikipedia article on migrant smuggling  
[http://en.wikipedia.org/wiki/People\\_smuggling](http://en.wikipedia.org/wiki/People_smuggling)

Libya as a current example for migrant smuggling  
<http://www.bbc.co.uk/news/world-africa-17481181>

UNHCR - Refugees Magazine Issue 148: Refugee or Migrant (2007 issue)  
<http://www.unhcr.org/475fb0302.html>