

**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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**ESTABLISHING COOPERATION AGAINST TRAFFICKING IN  
WOMEN AND CHILDREN**

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### **CONTENTS**

	<b>Pages</b>
<b>I. Introduction</b>	<b>1 – 2</b>
A. Background	
B. Issues for focused deliberations at the Fiftieth Annual Session of AALCO	
<b>II. Trafficking in Children: Human Rights Issues Involved</b>	<b>3 – 6</b>
A. State's Obligation in Combating Trafficking in Women and Children	
<b>III. Recent Developments</b>	<b>7 - 11</b>
A. 20 <sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice (11-15 April 2011, Vienna, Austria)	
B. Fifty-fifth session of the Commission on Status of Women (22 February - 4 March 2011 and 14 March 2011, UN Headquarters, New York)	
C. Fifth Session of the Conference of Parties to the United Nations Convention against Transnational Organized Crime (18-22 October 2010, Vienna, Austria)	
<b>III. Comments and Observations of the AALCO Secretariat</b>	<b>12 - 12</b>
<b>IV. ANNEX</b>	
Draft Resolution on Special Half-Day Meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children	<b>13 - 14</b>

# ESTABLISHING COOPERATION AGAINST TRAFFICKING IN WOMEN AND CHILDREN

## I. INTRODUCTION

### A. Background

1. The Government of Republic of Indonesia proposed the topic “Establishing Cooperation against Trafficking in Women and Children” on the agenda of the AALCO at its Fortieth Annual Session held in New Delhi, in June 2001. Considering the relevance of this topic and impact of this problem on the countries in the Asian and African region, this topic was included in the agenda item of AALCO’s Work Programme. The legal regime on this issue comprises of United Nations Convention against Transnational Organized Crime (TOC Convention) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Trafficking in Persons Protocol) and were adopted in the year 2000. The Convention entered into force on 29 September 2003. The Convention has - 147 signatories and 160 State Parties to it and 44 AALCO Member States are either parties or signatories to it. The Trafficking in Persons Protocol came into force on 25 December 2003 and till date has 117 Signatories and 145 countries as parties to it and 34 Member States of AALCO are either parties or signatories to it.

2. At the Forty-Third Annual Session of AALCO, held in June 2004 in Bali, Republic of Indonesia, a resolution (RES/43/SP 1) adopted after in-depth and thought provoking presentations and discussions at the Special Meeting on the topic, reiterated *inter alia*, the request for Member States, who are not a party to the TOC Convention and its Trafficking in Persons Protocol, to consider becoming parties to them. It further requested Member States to transmit to the AALCO Secretariat their national legislations, if any, on this subject.<sup>1</sup> Also, the resolution directed the Secretary-General to develop, in cooperation with Member States, a Model Law for the criminalization of trafficking in persons as well as protection of victims of trafficking, before, during and after criminal proceedings, based on human rights approach with a view to developing a concrete action plan for a joint effort against trafficking in persons, especially women and children.<sup>2</sup>

3. As a preliminary initiative of fulfilling the mandate entrusted via the said resolution towards drafting a Model Law, the Secretariat studied the national legislations received from the Member States of AALCO in the light of the Trafficking in Persons Protocol, prepared an outline with a view to developing a concrete action plan for a joint effort against trafficking in persons, especially women and children. Accordingly an outline of the model law in the form of addendum was presented at the Forty-Forth Annual Session, for consideration of the Member States.

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<sup>1</sup> So far the Secretariat has received responses from the following Member States relating to their respective national legislations on the topic: **Tanzania, Sultanate of Oman, Singapore, People’s Republic of China, Republic of Korea, Republic of Indonesia, Republic of Uganda, Philippines, Japan, Mauritius, Cyprus, Ghana, Qatar, United Arab Emirates, Sudan, Nepal, Lebanon, Myanmar, Syrian Arab Republic, Arab Republic of Egypt, Malaysia, Thailand and Kuwait.**

<sup>2</sup> Operative Para 9 of the Resolution (RES/43/SP1).

4. During the Forty-Fourth Annual Session of the AALCO in Nairobi, Kenya, in June-July 2005, delegations reiterated and emphasized on the urgent need for cooperation within the framework of the TOC Convention and the Trafficking in Persons Protocol. Most of the delegations affirmed the need for the model legislation on this issue. Thereafter, at the Forty-Fifth Annual Session of the AALCO at Headquarters, New Delhi, India in April 2006, the Secretariat presented a draft model legislation consisting of Preamble and five draft articles. The delegates from various Member States had an in-depth discussion on this topic. Further, at the Forty-Sixth Annual Session of AALCO at Cape Town, Republic of South Africa, in July 2007, the Secretariat, revised the draft model legislation and presented a set of Preamble and five draft articles. At the Forty-Seventh Annual Session, the Secretariat report had briefly traced the nexus between trafficking and international migration issues, and had requested its Member States for having safe migration laws and rules in its territory. The Secretariat report for the Forty-Eighth Annual Session highlighted Women's rights that are affected while being trafficked; the International legal instruments that cover their rights and the legal obligations of the States in ensuring their rights. A Special Half-day meeting was held on "Transnational Migration: Trafficking in Persons and Smuggling of Migrants" jointly by Government of Malaysia and AALCO. At the Forty-Ninth Annual Session of AALCO, the Secretariat brief covered the developments that occurred at various International Organizations in relation to this area of relevance. This topic was a non-deliberated item.

5. During the Session, a proposal was made to convene a **Workshop on "Trafficking in Persons, Smuggling of Migrants and International Cooperation"**. Subsequently a workshop on this topic was jointly organized by the AALCO and the Government of Malaysia in Putrajaya, Malaysia from 24 to 26 November 2010. It was attended by delegates from 16 Member States of AALCO, namely; India, Iraq, Islamic Republic of Iran, Japan, Kenya, Malaysia, Nigeria, Republic of Korea, Republic of Sudan, Singapore, South Africa, Sri Lanka, Thailand, United Arab Emirates, Union of Myanmar, and United Republic of Tanzania. The delegates from Australia (Non-member state of AALCO) and International Organization for Migration (IOM) also attended the Workshop. The Workshop was divided into three segments on Trafficking in Persons, Smuggling of Migrants and International Cooperation. The welcome address was delivered by Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO and the keynote address was rendered by Hon'ble Datuk Idrus Harun, Solicitor-General of Malaysia. At the workshop, one of the suggestions that emerged was to address the issue of Mutual Legal Assistance in Criminal matters for both Asian and African regions.

6. At the present session, the Secretariat Brief would cover human rights issues of the trafficked children; on recent developments the 20<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice, Fifty-fifth session of the Commission on Status of Women, and Fifth Session of the Conference of Parties to the United Nations Convention against Transnational Organized Crime are dealt.

7. **Issues for focused deliberations at the Fiftieth Annual Session of AALCO**

- *Human Rights issues of the trafficked children, particularly their right to health, right to be free from gender-based violence and discrimination, right to education, and right to development*
- *The obligation of states as parties to the TOC Convention in protecting the human rights of the trafficked victims, especially women and children*

## **II. TRAFFICKING IN CHILDREN: HUMAN RIGHTS ISSUES INVOLVED**

8. Trafficking in Women and Children comprises of set of human rights violations of the victims. The Trafficking in Persons Protocol, Supplementing the TOC Convention and Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Pornography and Child Prostitution set forth a three pronged approach to anti-trafficking efforts: (i) criminalization of acts of trafficking; (ii) trafficking prevention programs; and (iii) aid for victims of trafficking. International law recognizes prevention as a main ingredient to combat trafficking in human beings, sex trafficking, commercial sexual exploitation though prevention of which is heavily depended on addressing systematic issues like racism, sexism, poverty and so on and so forth. These factors or root causes of trafficking contributes towards producing conditions that permit sex trafficking networks to profit from exploiting poor and marginalized sections of the society.

9. It is undeniable fact that children, be it girls or boys are the most vulnerable sections among the trafficked victims. The increasing demand of children in prostitution, sexual exploitation and sex tourism and so on could be witnessed. The whole process of children being trafficked and forced into such heinous activities has different processes, right from being trapped into by the criminal groups towards being subjected to forced prostitution which never has consent from the trafficked victims.

10. It is fact that many of the children who are trafficked have very little information about the consequences of trafficking. Their capacity to avoid being trafficked is very minimal. In this regard, educating the children through schools and public awareness camps must be the preventive measures. These measures help them become aware of their rights and remedies at an early age. They must be empowered so that relevant information to protect them from trafficking must be effectively transmitted and the children are made aware of the consequences. Further, children leave schools because they feel that their families may not be able to afford such basic amenities, this would lead to acceptance of any offer to relieve them from their poverty and distress.

11. The victims of trafficking are generally children especially girl children. Keeping in view that right to education is recognized under international law as an individual's basic right, deprivation of the same to a child leads to non-accessibility of the child to knowledge about exploitative environment, including sex trafficking. When one says the right to development, it indicates that every trafficked victim has a right to fully grow into a person, which is deprived to them. Millions of children are victims of trafficking and commercial sexual exploitation each year. In response to these grave violations of children's rights, the international community has agreed upon a three-pronged mandate that requires governments to:

- (1) criminalize and prosecute all acts of trafficking and commercial sexual exploitation of children;
- (2) provide assistance to victims of these crimes; and
- (3) develop successful prevention programs.

12. The international community and various national governments have taken a number of constructive steps, including the adoption of international and regional conventions and major national legislation, it remains unclear how much these measures have benefited children at risk of exploitation. One reason these measures may not be as effective as hoped

is that governments have not oriented their approaches properly toward prioritizing prevention, the ultimate goal, and addressing these problems in a comprehensive and systematic manner. Efforts to date have focused on dealing with the aftermath of such exploitation of children by seeking to prosecute traffickers or develop victim assistance programs.

13. The worst scenario remains when such victims end up in debt bondage at the hands of traffickers who would then inflict upon them slave-like practices, use them for the purpose of prostitution or sexual exploitation. The major human rights issues involved at this instance are (i) right to health, (ii) right to be free from gender-based violence and discrimination, (iii) right to education and (iv) right to development. All the above mentioned rights of the trafficked victim relates to right to life with human dignity.

14. Ensuring these rights will help states fulfill their obligations under international law to prevent sex trafficking. Moreover, these individual rights, when fully ensured, will strengthen communities by improving health and education standards and reducing discrimination and marginalization of certain populations. Such improvements will help promote sustainable economic development, which in turn will reinforce respect for human rights. In this regard, human rights and international development complement each other and together can improve the lives of marginalized persons around the world who are so often the targets for abuses such as sex trafficking.<sup>3</sup>

15. Children's rights law covers a broad range of civil, political, economic, social and cultural rights that can help ensure that young girls grow into adult women able to exercise all of their rights. Ensuring equality for girls from early childhood will help address a host of issues ranging from female infanticide to education preference for boys. As trafficking networks prey on girls and boys as young as five and six years old, early intervention is vital. Education preference offers an important example of the need to address gender-based violence and discrimination early in life in order to promote both children's and women's rights. Education preference results in poor families electing to keep sons in school, rather than daughters. As a result, girls obtain lower levels of education, enter the workforce at a younger age with more limited skills, and thus are physically and mentally more vulnerable to exploitation and at increased risk of being drawn into the sex trade. When these girls become women, they are likely to be disadvantaged and less able to exercise their rights.

16. The health rights are enumerated under international law as the follows; (i) the right to highest attainable standard of health, including both physical and mental health; (ii) right to access health care services and treatment, including non-discrimination in the provision of health rights; and (iii) state obligations to address particular health care issues relevant to women and children.

17. It is essential to note that children need family support and care in order to transform into a fully informed people. Their safety and security, nurturing their talents, imbibing in them real values everything requires familial support and affection. Robbing them from their childhood leads to major character flaws leading them to be more vulnerable to being future criminals. Their proper upbringing requires adequate care and support. Their right to health

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<sup>3</sup> See, Uvin , Peter, Human Rights and Development (2004); Human Rights and Development: Towards Mutual Reinforcement (Philip Alston & Mary Robinson Eds., 2005).

includes right to mental health which must include their development as a fully-grown individuals.

18. International law recognizes that each individual has right to education. States has basically three obligations with respect to right to education, namely; (i) ensure access to education for all; (ii) comply with the requirements for each of the three levels of education (primary, secondary, and higher education); and (iii) progressively provide more with respect to the higher levels of education.

#### **A. State's Obligation in Combating Trafficking in Women and Children**

19. States are responsible under international law for human rights violations and acts of violence perpetrated by the State or any of its agents. Such State responsibility arises not only from State actions, but also from omissions and failure to take positive measures to protect and promote rights. Domestic and international responses to trafficking in persons, especially women and children, have adopted a three-pronged approach: prevention of trafficking, prosecution of traffickers, and protection and reintegration of victims.<sup>4</sup> Prosecution, prevention and protection (including human rights protection) must be the main pillars of an effective strategy to combat trafficking in human beings.<sup>5</sup> In their zeal to prosecute traffickers and protect the integrity of their borders, States must take care not to inadvertently violate the principle of doing no harm to trafficked persons, for example, by increasing the risk of exposure to abuse by third parties.<sup>6</sup> There is a clear need to ensure that the individuals falling victim to such criminal practices are protected.<sup>7</sup> There are two important streams of obligation on the part of the States, namely, crime prevention and protection of human rights of the trafficked victims.

##### **A. Crime Prevention**

20. The Convention and the Trafficking in Persons Protocol is intended to control and prevent crime. Government policies and the practices of border control, immigration, police and justice agencies often concentrate on the illegal aspects of migration, leaving aside the involvement of organized criminal groups in the smuggling of human beings. Therefore, it becomes an obligation on the part of the government authorities to effectively implement the provisions of the Convention and the Trafficking in Persons Protocol to curb the menace of trafficking and to check the activities arising or leading to trafficking.

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<sup>4</sup> See *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, U.N. Doc. A/53/383 (2000).

<sup>5</sup> See: Note by the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and the International Organization for Migration on the draft protocols concerning migrant smuggling and trafficking in persons. Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, Eight Session, Vienna, 21 February - 3 March 2000 (A/AC.254/27)

<sup>6</sup> See: Human Rights Caucus. 1999. *Human Rights Standards for the Treatment of Trafficked Persons*. ([www.wagner.inet.co.th/org/gaatw/smr99.htm](http://www.wagner.inet.co.th/org/gaatw/smr99.htm))

<sup>7</sup> Note by the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and the International Organization for Migration on the draft protocols concerning migrant smuggling and trafficking in persons. Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, Eight Session, Vienna, 21 February - 3 March 2000 (A/AC.254/27).

## B. Protection of human rights of the Trafficked Persons

21. Trafficking of women and children is linked with violence against women and children and their human rights. All the human rights including the sexual and reproductive rights would form the gamut of 'women's human rights'. The sexual and reproductive rights of the women though are not specified in any of the international legal instruments of human rights, they are implicit in all of them and are defined in an array of non-treaty human rights declarations and action platforms.<sup>8</sup> Women's sexual and reproductive rights under international human rights law is a combination of civil, political, social, cultural, and economic rights. This includes the right to health and family planning; the right to life, freedom, integrity, and security; the right not to be assaulted or exploited sexually; the right not to be tortured or to be the object of cruel, inhuman, degrading punishment or treatment; the right not to be subject to sex-based discrimination; the right to privacy; the right to intimacy; and the right to enjoy scientific progress and the right not to be subjected to scientific or medical experimentation without full consent.

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<sup>8</sup> The Program of Action adopted at the International Conference of Population and Development (The Cairo Action Program 1994) was the first international conference to define the term "reproductive rights" if not "sexual rights." Specifically, the International Conference on Population and Development (Cairo 1994) defined reproductive health as a "state of general physical, social and mental well-being" and not just "the absence of illness in all the aspects related to the reproductive system, its functions and processes." Reproductive health, therefore, includes the capacity to enjoy a satisfactory sexual life without risks, and the freedom to decide whether or not to have children, when and how many. For this reason, we can say that reproductive rights are recognized internationally and are binding. See also Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995).



### **III. RECENT DEVELOPMENTS**

#### **A. 20<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice (11-15 April 2011, Vienna, Austria)**

22. The United Nations General Assembly vide its resolution 65/232, entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”, reiterated the importance of providing the United Nations Crime Prevention and Criminal Justice programme with sufficient, stable and predictable funding for the full implementation of its mandates, in conformity with the high priority accorded to it and in accordance with the increasing demand for its services.

23. The 20<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice was held from 11 to 15 April 2011 in Vienna, Austria. The following topics were discussed in detail:

- (i) Thematic discussion on protecting children in a digital age: the misuse of technology in the abuse and exploitation of children<sup>9</sup>;
  - (a) Nature and scope of the problem of misuse of new technologies in the abuse and exploitation of children;
  - (b) Responses to the problem of misuse of new technologies in the abuse and exploitation of children.
- (ii) Integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice;
- (iii) World crime trends and emerging issues and responses in the field of crime prevention and criminal justice.
- (iv) Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice; and
- (v) Use and application of United Nations standards and norms in crime prevention and criminal justice.

24. The Economic and Social Council (ECOSOC) in its decision 2010/243, entitled “Report of the Commission on Crime Prevention and Criminal Justice on its nineteenth session and provisional agenda and documentation for its twentieth session”, decided that the prominent theme for the twentieth session of the Commission would be “Protecting children in a digital age: the misuse of technology in the abuse and exploitation of children”. The sub-themes for this thematic discussion was:

- (i) Nature and scope of the problem of misuse of new technologies in the abuse and exploitation of children:
  - (a) Typology of risks and threats to children and how children are affected by new technologies, including social networks and text-messaging;

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<sup>9</sup> See Document No. E/CN.15/2011/2 of the Commission on Crime Prevention and Criminal Justice, Twentieth session, “Thematic discussion on protecting children in a digital age: the misuse of technology in the abuse and exploitation of children: Discussion guide for the thematic discussion on protecting children in a digital age: the misuse of technology in the abuse and exploitation of children” dated 31 January 2011.

- (b) Global trends and patterns in the misuse of new technologies in the abuse and exploitation of children, and how the reporting and analysis of such trends and patterns can be facilitated through improved data collection;
  - (c) The role of the private sector in new technologies and other relevant areas and how the private sector can help address the problem of abuse and exploitation of children;
  - (d) Understanding the impact of cybercrime on child victims, the varying impact of different offences and which offences pose greater risks;
- (ii) Responses to the problem of misuse of new technologies in the abuse and exploitation of children:
  - (a) Preventing the misuse of digital media and new technologies in the abuse and exploitation of children, including through education and awareness raising, situational prevention and technical prevention;
  - (b) Development and harmonization, as applicable, of criminal justice and other measures to prevent and investigate cybercrime offences targeting children and prosecute offenders;
  - (c) Enhancing regional and international cooperation and exploring ways and means to cooperate with the private sector, including the possible elaboration of codes of conduct for industry;
  - (d) Enhancing national capacities through adequate and evidence-based technical assistance.

25. The specific issue of child sexual abuse and exploitation has been underlined by various agencies of the United Nations where it encourages Member States to take appropriate measures, consistent with their international obligations and national legislation, to prevent and make efforts to eliminate the use of mass media and information technologies, including the Internet, to facilitate or commit child sexual exploitation offences. The recent example being the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Salvador, Brazil, from 12 to 19 April 2010 which adopted the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World and the 2005 Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice. It reaffirmed the fundamental importance of implementation of existing instruments and the further development of national measures against cybercrime, and welcomed the efforts to enhance and supplement existing cooperation to prevent, investigate and prosecute high-technology and computer-related crime.

**B. Fifty-fifth session of the Commission on Status of Women (22 February - 4 March 2011 and 14 March 2011, UN Headquarters, New York)**

26. At the fifty-fifth session of the Commission on Status of Women, held during February 2011, the main focus was on: Follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly, entitled “Women 2000: gender equality, development and peace for the twenty-first century”<sup>10</sup>:

“(a) Implementation of strategic objectives and action in critical areas of concern and further actions and initiatives:

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<sup>10</sup> For Agenda of the fifty-fifth session see E/CN.6/2011/1 dated 24 November 2010.

- (i) Priority theme: access and participation of women and girls in education, training, science and technology, including for the promotion of women's equal access to full employment and decent work;
- (ii) Review theme: the elimination of all forms of discrimination and violence against the girl child;

(b) Emerging issues, trends and new approaches to issues affecting the situation of women or equality between women and men;

(c) Gender mainstreaming, situations and programmatic matters<sup>11</sup>,”

27. The agreed conclusions during the session were on “Access and participation of women and girls in education, training and science and technology, including for the promotion of women's equal access to full employment and decent work”. The panel discussion on emerging issues that were discussed includes: (i) Gender equality and sustainable development, (ii) Elimination of preventable maternal mortality and morbidity and the empowerment of women, and (iii) The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges.

28. Education is a key driver of economic growth and social change, and its importance for achieving gender equality is well recognized. On increasing access to education, the 15-year review of implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly showed that States have undertaken a wide range of actions to implement the strategic objectives for education and training at the national level, with substantial gains for women and girls particularly in relation to access<sup>12</sup>.

29. Achieving education for all depends not only on increased access, but also on what children learn at school. Therefore, poor quality of education remains a major concern, particularly in the developing world, as many children leave school without basic literacy and numeracy skills. In addition, girls and women need more than reading, writing and mathematics. They must also develop skills relevant for today's job market, such as critical thinking, teamwork, planning and organizing, communication and leadership. Quality education depends on a number of factors, including school infrastructure, availability of textbooks and learning materials, and competence and training of teachers. Investing in early childhood education can also help to improve subsequent learning achievement.

30. The fifty-sixth session of the Commission would be held from 27 February to Friday, 9 March 2012 at UN Headquarters, New York.

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<sup>11</sup> The provisional agenda is available on:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/651/40/PDF/N1065140.pdf?OpenElement>.

<sup>12</sup> See E/2010/4-E/CN.6/2010/2, para. 49.

**C. Fifth Session of the Conference of Parties to the United Nations Convention against Transnational Organized Crime (18-22 October 2010, Vienna, Austria)**

31. The fifth session of the Conference of Parties to the TOC Convention had a general debate of the high-level segment on new and emerging forms of crime<sup>13</sup>. Commemorating the tenth anniversary of the TOC Convention, speakers said that the Convention provided an opportunity for States to renew their collective and individual commitment to the fight against transnational organized crime and to assess the effectiveness of measures taken to date. They also recognized the growing and multidimensional threat of organized crime stating that it had become a business of macroeconomic proportions, thus hindering legitimate economic activities and undermining democratic governance, security and development. The importance of the Convention and its Protocols as the principal international instruments for combating organized crime in all its forms and manifestations was underlined. In this regard, States parties to the Convention and the importance of promoting universal adherence and comprehensive implementation. They also highlighted that concerted efforts were required to dismantle powerful international criminal networks.

32. It was noted that globalization and interconnectivity had contributed to the expansion of transnational organized criminal groups, allowing them to gain power, adapt their modus operandi and operate beyond national borders. Trafficking in persons and smuggling of migrants were that two most heinous manifestations of organized crime, while trafficking in firearms facilitated organized crime, thus requiring greater cooperation and action in that regard.

33. The importance of developing adequate legislative and operational responses in order to prevent and combat emerging and re-emerging forms of crime was emphasised. Moreover, it was stated that comprehensive crime prevention policies were necessary to address the root causes of crime. In addition, the devastating effects of cybercrime as illustrated by the phenomenon of child sexual exploitation was highlighted and the issue of whether a new legal instrument targeting cybercrime should be developed was raised. As cultural property was a common heritage that ought to be preserved and protected, effective international cooperation to facilitate return of the stolen property was required and it is a serious form of organized crime. Special emphasis was made on the issue of piracy and trafficking in natural resources.

34. Moreover, the importance of international cooperation as a key component of the inter-state modality of implementation of the Convention was reiterated. They evoked the unique and comprehensive framework provided by the Convention, which established common mechanisms for extradition and mutual legal assistance and which would deny safe havens to criminals. Similarly, the ability to effectively carry out seizures and confiscations would ensure that criminal organizations were deprived of their illicit assets and deny them undue influence.

35. At the COP, speakers welcomed the adoption of the United Nations Global Plan of Action to Combat Trafficking in Persons,<sup>14</sup> which was viewed as an important step in

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<sup>13</sup> See document no. CTOC/COP/2010/17 on the “Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010” dated 2 December 2010.

<sup>14</sup> General Assembly resolution 64/293.

combating that particularly serious form of organized crime. In particular, speakers noted the importance of the establishment of the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children, to provide adequate financial, social and other support to victims of trafficking in persons.

36. In relation to the Trafficking in Persons Protocol, speakers proposed the development of a plan for the effective implementation of the Trafficking in Persons Protocol so as to support the implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons. In that context, it was recommended that the mandate of the Working Group on Trafficking in Persons be extended to work on such a plan to implement the Protocol. In that context, the recommendations of the Working Group were welcomed. Some speakers pointed out that the Trafficking in Persons Protocol constituted a road map for a comprehensive fight against trafficking in persons. It was noted that the Global Initiative to Fight Human Trafficking (UN.GIFT) would, among other possibilities, make a good support platform for the implementation of the Global Plan of Action. Speakers also noted the possibility of extending UN.GIFT, and of discussing its management and governance, on the basis of the evaluation of the Global Initiative, in order to ensure the sustainability of its efforts. It was also suggested that more funding be dedicated to regional activities and support structures for victims. Some speakers highlighted the role of UNODC and other international organizations in providing technical assistance to combat trafficking in persons. Speakers expressed appreciation for the tools developed by UNODC and the cooperation between their Governments and UNODC. A resolution was adopted in this regard.

#### **IV. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT**

37. Commemorating the tenth anniversary of the TOC Convention, a review of the implementation of the TOC Convention and its Trafficking in Persons Protocol is essential. A state has to look forward to take into account how far measures both at domestic and international level has been taken to combat this menace. The most vulnerable section among the trafficked people are children – young girls and boys, because of their ignorance and innocence, it is difficult for them to either resist or give consent. Therefore, children must be protected from being trafficked and beyond prevention obligation, states must take measures like spreading awareness, educating the young generation about the adverse effects of being trafficked, so that young children would be aware of which law enforcement agency to be contacted, when confronted with such situations.

38. The recent developments drawn from different International Organizations, especially the fifth session of the COP to the TOC Convention, 20<sup>th</sup> session of the United Nations Congress on Crime Prevention and Criminal Justice, etc shows how far efforts have been taken by the international community in combating this crime in all its manifestations. It has been recognised that in this digital-virtual world, vulnerability of children falling trap to such criminal activities and sexual and commercial exploitation is more. Education and spreading awareness about the consequences at school level would be more effective in imparting the measures to the children. There is overlapping nexus between trafficking in persons and smuggling of migrants which poses serious threat to security as well as human rights issues, fulfills the need to address this issue from a networks approach.

39. Most of the Member States of AALCO are either parties or signatories to the TOC Convention and its Trafficking in Persons Protocol. Their efforts in terms of adhering to these instruments, is a manifest example of recognising this issue as a menace that needs to be addressed and dealt with effectively. However, main issues like gender discrimination and violence against women and children still requires to be combated, which could happen only when States have effective domestic laws and also spread social awareness about the consequences of such problems to those sections of the society. The Commission on Status of Women, during its recent session highlighted these issues alongwith mainstreaming women in the society through proper education that are job-oriented so that empowerment of women does not remain a distant dream.

40. It is a matter of appreciation that AALCO Member States have been making all efforts to combat this crime. It is essential to pay serious attention to the need to accord protection to the victim's human rights while addressing the means to deal with trafficking in persons and smuggling of migrants. Cooperation at international, regional and bilateral level is essential to deal with these problems.

## V. ANNEX

SECRETARIAT DRAFT  
AALCO/RES/50/SP 1  
1 JULY 2011

### RESOLUTION ON SPECIAL HALF-DAY MEETING ON TRAFFICKING OF WOMEN/CHILDREN, MIGRANT WORKERS AND PROTECTION OF CHILDREN

*The Asian-African Legal Consultative Organization at its Fiftieth session,*

**Considering** the Secretariat Document No. AALCO/50/COLOMBO/2011/S 8;

**Having heard** with appreciation the views expressed by the Chairperson and the Panelists and the statements of the Member States during the Special Meeting on “Trafficking of Women/Children, Migrant Workers and Protection of Children” jointly organized by the Government of Sri Lanka, AALCO, IOM and the UNICEF on 30 June 2011 at Colombo, Sri Lanka;

**Mindful of** the increasing number of individuals being exploited through trafficking in persons especially women and children and smuggling of migrants, including from the Asian-African region;

**Convinced** of the need to eliminate all forms of trafficking in persons and smuggling of migrants and bearing in mind the overlapping nature between trafficking in persons and smugglings of migrants, which are flagrant violations of human rights;

**Noting** the continuing efforts of Member States in combating trafficking in persons and smuggling of migrants, and encouraging them to inform and update the AALCO Secretariat of pertinent developments in their respective States, in order to share experience amongst Member States;

**Acknowledging** with appreciation that some Member States have submitted to the AALCO Secretariat their national legislations and other relevant information related to the topic, and urges other Member States to do the same:

1. **Encourages** the Member States which are not yet party to consider ratifying/acceding to the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in 2000;
2. **Directs** the Secretariat to follow and report on the developments in this regard, including the work undertaken by other fora;

3. **Mandates** the Secretary-General to constitute an open-ended Committee of Experts to conduct study on ways and means to enhance mutual legal assistance in criminal matters among Member States for their further consideration;
4. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.