Working Groups Session 1: Human trafficking

1. Human trafficking: overview and legal frameworks

Human trafficking can implicate many different human rights, including: rights against slavery and forced labour, the right to personal liberty and autonomy, the prohibition of discrimination, freedom of movement, rights against torture or other cruel or inhuman treatment, and the freedom to choose work. Human trafficking differs from people smuggling and illegal migration in that its victims have been coerced into movement within or across borders, and are thus forced to undertake work under exploitation. Trafficking can affect women, children and men and its victims are found in every region of the world.

| International human rights law | UDHR, Article 4: prohibition of slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.  
ICCPR, Article 8: prohibition of slavery, slave-trade, servitude as well as forced or compulsory labour.  
ICESCR, Articles 6, 7 and 9: the freedom to choose work and the rights to decent working conditions and to social security.  
CEDAW, Article 6: States’ obligation to suppress all forms of traffic in women and exploitation of prostitution of women.  
Also UN CRC and its Optional Protocol on the sale of children, child prostitution and child pornography. |
|--------------------------------|-----------------------------------------------------------------------------------------------------|
| Regional human rights law     | Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 2005/2008. The Convention requires States Parties to positive obligations to prevent human trafficking and protect its victims and it includes a definition of the victim, as well as the possibility to exempt victims of involvement in illegal activities. Moreover, the States Parties are obliged to offer to victims an entitlement to a 30-day recovery.  
ASEAN Declaration Against Trafficking in Persons 2004  
SAARC Regional Convention on Combating the Crime of Trafficking in Women and Children for Prostitution |
Rome Statute of the ICC, Article 7. |
| ILO                            | ILO Convention No. 29: Forced Labour Convention, 1930; it requires the elimination of all forms of forced and compulsory labour and it also defines forced and compulsory labour.  
ILO Convention No. 143: Migrant Workers (Supplementary Provisions), 1975.  
| CSR standards                  | UN Global Compact: principles 1, 2, 4 and 5 and 10. |
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<tr>
<th>and other initiatives</th>
<th>Athens Ethical Principles, 2006. UN Global Initiative to Fight Human Trafficking (UN GIFT)</th>
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<tr>
<td>National law</td>
<td>Plays an important role in regulating and banning human trafficking</td>
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2. Human trafficking: Impacts and responsibilities of business

Businesses can be implicated in human trafficking in different ways:
- **directly** through the recruitment, transport, harbouring, or receipt of a person for the purpose of employment or other exploitation
- **indirectly** e.g. through the actions of their suppliers or business partners, including sub-contractors, labour brokers or private employment agencies. This includes risks in global supply chains, as workers may be trafficked within countries where supply chain labour takes place.

Such involvement can lead to legal proceedings against businesses, because human trafficking is a crime in most countries in the world.

In August 2008, family members of 12 men killed in Iraq and a surviving worker filed a lawsuit in a US federal court against Kellogg Brown & Root (KBR), a US military contractor in Iraq, and its Jordanian sub-contractor, Daoud & Partners. The action was brought under federal trafficking law and the Alien Tort Claims Act and is based on, among other things, allegations of racketeering, trafficking, forced labour, slavery and false imprisonment. The plaintiffs claimed that the 13 men were initially recruited in Nepal to work in hotels and restaurants in Amman, Jordan. Instead, they alleged that a Daoud & Partners representative seized their passports after they arrived in Jordan, and that they were later trafficked into Iraq to work at a US military facility. The plaintiffs argued that Daoud, KBR and their co-conspirators were parties to a trafficking enterprise (Business and Human Rights Resource Centre).

Sometimes the threat of trafficking can emerge very suddenly. In mid-2006, during the armed conflict in Lebanon, UN Office on Drugs and Crime (UNODC) became aware that traffickers were targeting some of the 300,000 domestic workers from Sri Lanka, Ethiopia and the Philippines who were left behind when their foreign employers were evacuated. Having abruptly lost their livelihoods and official resident status, the workers quickly became vulnerable. As embassies struggled to assist their nationals, trafficking gangs offered alternative options.

UNODC put an emergency information campaign in place within days: it produced 12,000 pages of information in various languages, including the number of a telephone hotline run by the NGO Caritas Migrant for assistance and support. The materials were distributed in shelters, embassies, churches, shops and markets. (UN GIFT).

Businesses can take various measures to avoid implication in trafficking, including:
- Screening and spot checks on suppliers to check documentation and interview workers
- Identification of high risk locations, workforce groups, products and services
- Including relevant penalties and terms in contracts with employment agencies.

3. Human trafficking: Duties and role of states

Measures that States should take in order to combat human trafficking include:

*Investigations and sanctions:*
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- Passing legislation criminalising the offence of trafficking and related crimes, including forced labour, forced marriage and exploitation of labour
- Effectively investigating, prosecuting and adjudicating trafficking, including its component acts and related conduct, whether committed by governmental or by non-state actors
- Effective and proportionate sanctions have to be applied to individuals and legal persons found guilty of trafficking or of its component or related offences.

**Protection and remedies** - ensuring that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care, paying due attention vulnerable groups including women and children. Such protection and care should not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings. States shall provide protection and temporary residence permits to victims and witnesses during legal proceedings. Safe (and, to the extent possible, voluntary) return should be guaranteed to trafficked persons by both the receiving state and the state of origin. Trafficked persons should have access to effective and appropriate legal remedies.

**Prevention** - adopting strategies aimed at preventing trafficking which address root causes of trafficking, including demand.

Many human trafficking laws are limited in their application to the sexual exploitation of women and girls. That means they provide no assistance to men or, for example, to women trafficked to work in domestic servitude or sweatshops. Without specialised human trafficking laws, victims are subjected to greater uncertainties while traffickers face reduced risks and penalties.

In 2006, UNODC offered Armenia, Lebanon and South Africa assistance in drafting anti-human trafficking legislation. Criminal justice officials from Burkina Faso, Ghana, Nigeria, Togo, Ukraine and South Africa received specialized training. UNODC assisted NATO in training its senior officials to combat trafficking in persons. Three computer-based training modules to combat trafficking in persons were finalised in Thailand. The ECOWAS Training Manual on Trafficking in Persons, containing an action plan for West and Central African countries, was launched in 2006. (UN GIFT)

4. Human trafficking: good practices and cases

There are currently many international and national initiatives that address human trafficking.

**NHRI Cooperation** – In the Asia Pacific Region, many NHRIs are cooperating to combat human trafficking, for example:

- In 2003, the Mongolian and Malaysian NHRIs cooperated on a case of four Mongolian women who were trafficked into Malaysia. The Mongolian Commission alerted the Malaysian Commission of the case, and the Malaysian Commission used its detention monitoring mandate to investigate. The Mongolian NHRI used the Malaysian Commission’s findings to formulate its own national level recommendations and response.
- In 2007, the NHRI of Indonesia, Malaysia, Phillipines and Thailand signed a Declaration of Cooperation including trafficking in women and children and have also conducted research around this topic.
The Korean NHRI organized a conference on migration in Asia in 2008, leading to production of the Seoul Guidelines on Cooperation of NHRIs for the Promotion and Protection of Migrants in Asia, which addresses victims of trafficking (Asia-Pacific Forum).

In July 2010, the Jordan National Centre for Human Rights (NCHR) called on the Jordanian Labour Ministry to adopt a new system that gives foreign workers more flexibility in changing their employer and workplace. Jordan had recently adopted a Trafficking in Humans Law and also decided to include domestic helpers in the scope of Jordanian Labour Law, but the NCHR highlighted that the new legislation was not being fully enforced. The Jordan national higher committee has also set up a national strategy to combat trafficking in human beings, including training for judges and public security personnel on approaches to relevant cases. (Jordan Times)

Through its Unlimited Potential Programme, Microsoft partners with local NGOs and other organizations to support projects aimed at empowering unemployed youth, marginalized women and rural communities. In countries such as India and the Philippines, these projects reach out to victims of human trafficking and communities vulnerable to trafficking, providing basic computer literacy and IT training and increasing local employment opportunities. Microsoft works with local NGOs to establish community technology centres, which offer free or low cost access to the Internet and opportunities to participate in community activities, develop IT skills and explore career alternatives.

Following the deaths of trafficked Chinese workers, the Gangmasters Licensing Authority was established in the UK to monitor companies providing temporary workers in the agriculture, forestry, horticulture, shellfish gathering and food and drink processing and packaging sectors. Providers licenses can be revoked and criminal penalties imposed for violations.

UN GIFT and the End Human Trafficking Now! Campaign are developing an e-learning tool to sensitize companies regarding why human trafficking is an issue for business and informing companies what they can to combat it. The web-based tool will help inform employees at all levels of the company on the importance of a zero-tolerance approach and how to adopt policies and mechanisms, including in the supply chain: http://www.ungift.org/

The UN Global Compact website includes a Dilemmas Forum on human trafficking including a range of examples of challenges and initiatives involving companies: http://human-rights.unglobalcompact.org/case_studies/human-trafficking/
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### 5. Human trafficking: Enhancing the role of NHRIs

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<tr>
<td><strong>Monitoring</strong></td>
<td>Examine existing domestic, regional and international standards to determine best practice in state and voluntary regulation of human trafficking. Monitor counter-trafficking work, activities and responses by the government and law enforcement officials.</td>
<td>Identify high-risk sectors and activities and conduct research, surveys or checks.</td>
<td>Cooperation with civil society to decide on best practices regarding human trafficking.</td>
<td>Promote capacity building of NGOs supporting victims in specific high risk groups for trafficking.</td>
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<tr>
<td><strong>International and regional mechanisms</strong></td>
<td>Engage with other NHRIs in region to review adequacy and enforcement of regional standards.</td>
<td>Consider regional engagement or memoranda of understanding between NHRIs and high risk industry sectors.</td>
<td>Alert local NGOs to options for feeding into international mechanisms on trafficking issues.</td>
<td>Promote awareness of international standards and mechanisms applicable to trafficking victims.</td>
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<tr>
<td><strong>Advocacy and education</strong></td>
<td>Advocacy toward the implementation of comprehensive birth registration for all people in the jurisdiction. Provide human rights training to law enforcement officials and the judiciary around trafficking issues. Advocacy for full criminalisation of trafficking and related offences, and safe and voluntary repatriation standards.</td>
<td>Training and encouraging businesses in high risk sectors to participate in self-monitoring, reporting, supply chain and industry initiatives including trafficking.</td>
<td>Awareness-raising amongst NGOs addressing vulnerable groups.</td>
<td>Advocate human rights based approach to repatriation and reintegration of victims, including access to supportive reintegration programmes.</td>
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<td>Access to remedy / reparation</td>
<td>Advocacy with government to ensure adequate avenues and legal aid for raising complaints on human trafficking.</td>
<td>Awareness-raising of role of businesses in monitoring and facilitating access to complaints mechanisms on human trafficking.</td>
<td>Awareness-raising of role of civil society in monitoring and receiving complaints on human trafficking.</td>
<td>Raising awareness amongst potential victims groups about possibilities for lodging complaints.</td>
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### 6. Further information

- **UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking**

- **UNICEF Guidelines for Protection of Child Victims of Trafficking**

- **UNGift Best Practices portal**