Human Rights Impact of Anti-trafficking Interventions: Developing an Assessment Tool

An International Consultation

11-13 June 2007, Utrecht, The Netherlands

Summary Report

1. Introduction

In recent years, non-governmental organisations, specialists and advocates in the field of trafficking in human beings, migrants' rights and sex workers' rights and related fields have observed with growing concern various negative consequences of anti-trafficking interventions. Examples are:

1. Existing measures to protect and assist individuals who are identified as victims of trafficking are inadequate and ineffective, and in many instances actually further harm the rights of those they are intended to benefit.

2. Many anti-trafficking laws, policies and practices contribute to the stigmatisation and criminalisation of women working in non-formal, unregulated and unprotected labour sectors, most prominently sex workers and domestic workers, both local and migrant. Thus making them more vulnerable for abusive practices.

3. In the long run, indiscriminate and repressive anti-trafficking laws, policies and campaigns, negatively impact on women's rights in general.

> The Humanist Committee on Human Rights is a NGO based in the Netherlands. Its mission is to contribute to the implementation of human rights throughout the world. It specializes in human rights impact assessments and works closely together with organizations from different parts of the world. One of its products is the Health Rights of Women Assessment Instrument (HeRWAI, see http://www.hom.nl/english/womens_rights_wrw.php), which is a practical tool for NGOs to analyse and influence the impact of policies on women's health rights. HOM disseminates information on human rights impact assessment via the website www.humanrightsimpact.org.

To be able to minimise negative impacts and maximise positive impacts of anti-trafficking interventions, it is important to analyse the precise relation between those interventions and the human rights of the people affected by those interventions. It is with this in mind that HOM, represented by Saskia Bakker, together with Lin Chew and Marjan Wijers - two long-standing advocates of the necessity to adhere to human rights principles in anti-trafficking measures – took the initiative to develop a human rights impact assessment tool, which can help stakeholders in such a process.

As a first step in a proposed project to develop a human rights impact instrument for the documentation and assessment of anti-trafficking laws, policies and measures (henceforth, the tool), an international consultation was held 11-13 June in Utrecht. Aim of the consultation was to assess the need for such a tool and to discuss possible objectives, functions, scope, content and process to develop the tool.

2. The consultation

The consultation brought together twenty persons, including the organisers. Participants were representatives of NGOs, independent specialists and researchers, working in the related fields of anti-trafficking and forced labour, human rights, labour rights, sex workers' rights and migrants' rights (see participants list). Basis of the discussion was the preliminary project proposal written in October 2006 and a discussion paper formulating dilemmas and questions (note and ref. – we should set up a web-site soon).

During the first two days intensive working sessions were held to table and discuss all the issues and aspects which have to be taken into consideration in making the tool.

On the morning of the third day -13th June – the participants presented examples of the human rights impact of anti trafficking interventions as well as the main outcomes of the discussions regarding the tool in a public forum. In the afternoon they discussed their views with a number of donors, who responded with great interest to the project, and expressed their willingness to support its further development.

3. Results of the consultation (preliminary, to be validated by participants)

This summary report presents the main results of the two days' discussions, organised along four main aspects, each of which encompasses multiple related issues discussed.

a) Need for the tool

There is a great need for a human rights impact assessment tool to analyse and assess anti-trafficking laws, policies and measures

Participants unanimously affirmed that there is a need for an assessment tool, and that the initiative is a welcome and timely one. A tool will help NGOs to bring human rights principles into practice in relation to anti-trafficking measures. Contrary to the situation some years ago, experience now exists on the development and use of such tools.
The tool is needed for a variety of reasons:
- There is a lack of (technical) ability to analyse, make impact assessments and find solutions, especially in situations where the needs and interests of various sectors and communities; intersect each other and human rights issues are more complicated than what meets the eye;
- There is an urgent need for correct and reliable information as a basis for human rights advocacy in the field of anti-trafficking policies and measures;
- The groups affected by anti-trafficking policies (next to trafficked persons), in particular local sex workers and migrant workers (including migrant sex workers and domestic workers), need

Examples of harmful practices given by participants include, but are not limited to the following situations:

*Indiscriminate "rescue operations" in the form of sweeping police raids of prostitution establishments disrupt and complicate the lives and work of sex workers and do not involve sex workers in finding solutions to coercion and violence within the sex industry.

*Vigilance committees set up to prevent trafficking of children stop children and youth fleeing from violence and wars at borders.

*People avoid using available services, because of the consequent stigmatization as prostitutes.

*Police intercepting young women and girls travelling in groups have led to girls now travelling alone, and thereby becoming more vulnerable.

*Migrant and local workers in non-formal or unregulated sectors everywhere are categorised and controlled, detained and/or deported, mostly without any recourse to legal assistance or protection, and subject to prevailing immigration policies and/or exploitative and unscrupulous employers.

to be recognised as part of the solution and their participation needs to be guaranteed in decision-making processes on anti-trafficking measures;
- It is necessary to document and analyse the extent of negative impacts of anti-trafficking laws, policies, measures, as well as negative impacts caused by the application of non-trafficking-specific laws in an anti-trafficking context;
- Causes and consequences of trafficking are not effectively addressed by current anti-trafficking policies and interventions;
- Governments need to be held accountable for the harm resulting from their anti-trafficking and related laws and policies, and for the protection and promotion of rights of those affected by those measures;
- A tool can help to show how globalisation and interdependence of countries within the scope of the human trafficking issue sometimes 'hide' root causes, such as impoverishment and unequally distributed wealth, as well as how corruption and impunity influence the implementation of measures.

b) *Aims and functions*

There is great desire for the tool to fulfil many goals and functions, but also the realisation that not all may be possible in the interest of applicability and utility.

In the long term, the tool aims to contribute to respect for and protection of human rights. The tool should focus on the rights of children, youth, women and men, taking into consideration the specificities and diversities of gender, age, class and ethnicity. Although human rights are universal and indivisible, the tool should especially focus on the right to work, to just compensation and proper working conditions, to mobility and access to justice.

The tool will be primarily developed for NGOs. It should provide them with a strategic instrument to analyse the effects and impact of measures undertaken by governments and international organisations, and therefore should:

- Provide information on relevant human rights and labour standards and their specific applicability in concrete situations;
- Provide guidance in analysing and assessing human rights impacts of specific measures, identifying all the groups and sectors which may be affected, as well as who should be held accountable;
- Help users to make strategic choices about lobby and advocacy targets and processes, to gather data/evidence for advocacy, and to generate constructive ideas for improvement of specific situations;
- Be a resource for general human rights education to understand the systemic nature of human rights violations, and make this accessible to, amongst others, grassroots communities;
- Stimulate inclusive, participatory processes and facilitate an active role for all parties involved, especially local grass-roots organisations, sex workers, migrant workers, workers in irregular and non-formal labour sectors, etc.;
- Provide new content and stimulation for the (eventual / possible) growth of new (rights-affirming) coalitions and networks;
- Be broad enough in scope to be applicable to a wide range of policies and situations, and specific enough to be useful and effective.

In addition, the tool might also be used for self assessment by NGOs. However, whether or not these two functions are compatible needs more discussion and research.

c) Language

There is great concern about the intended and unintended negative impacts of the prevalent "anti-trafficking framework" and the concepts connected to it. The developers of the tool should avoid the use of terms and concepts which presume an unanimous acceptance of this framework among users.

There was agreement that the terminology to be used in the tool should reflect the rights-based concepts and principles which the tool aims to promote. Most importantly, the language of the tool should promote a rights-affirmative (participative, non-discriminatory and non-victimising) attitude towards the groups and sectors which are intended or unintended targets of anti-trafficking measures.

Therefore one of the first things that has to be done is to create a glossary of terms and concepts which should be used in the tool as well as an explanation why certain terminology should not be used.

In order to facilitate meaningful participation of people from different continents, reports and other principal documents for consultation, and of course the tool itself should be translated into relevant languages.

d) The process of development: consultation and capacity building

The practical process of developing the tool will go through several phases:

1. Inventory of existing experiences and knowledge
2. Developing the first draft
3. Testing the tool
4. Revision and finalisation
5. Dissemination and implementation

The participants stress that the process of developing and implementing the tool should be inclusive and facilitate participation of the people who are (directly and indirectly) affected, as well as those who are advocates and supporters. A participative process will:

- ensure access to and use of necessary resources;
- contribute to making the tool user-friendly and effective;
- create sense of ownership of the tool among potential users;
- contribute to the capacity of all involved, and
- thus increase the likelihood that the tool will be widely and effectively used.

Concretely, this leads to the following recommendations for the process of development, as well as the organisation of the implementation of the tool:

> A disciplined and transparent consultative process among, initially, the participants of the Consultation, and in the future, other persons and stakeholders recommended. Through the same consultative process, criteria will be developed for involving new participants in this on-going advisory process. Also, criteria and Terms of Reference will be developed for the establishment of a Steering Group who would be committed to oversee and take responsibility for the whole project.

> National, sub-regional and regional face-to-face consultations should make an integral part of the development process of the tool.

> A programme to strengthen the capacity of (potential) users of the tool should be an integrated aspect of the tool. A possible form can be the development of trainers' modules to support organisations in the use of the tool.

4. Next steps

Participants urged the organisers to push ahead to realise the tool, and pledged their support to the process. The following steps were agreed upon:

- Writing a detailed report with all the concrete recommendations of the participants (August-October).

- Starting the development of a glossary of rights-based terms and concepts, with use of a Wiki-type programme that allows for active input and reactions from the participants (July onwards).

- Developing a project proposal to solicit funds for the project (October-November)

- Setting up a communication system to facilitate the consultation process (July-August)

5. Credits

The organisers express their heartfelt thanks to the participants of the consultation, who so unreservedly and collaboratively shared their insights and knowledge and gave their time to this essential first step of the whole project, and their commitment to stay involved in the further development process of the tool.

We also thank all those who could not attend, but gave their comments on the proposal.

Last but not least, we thank Mama Cash Foundation (Amsterdam), the former Clara Wichmann Foundation (The Hague), The Global Fund for Women (San Francisco) and ICCO (Utrecht) for believing in the potential of the tool, and investing in its inception.

July, 2007

List Participants international consultation

Name	Organisation	Function
Saskia Bakker	Humanist Committee on Human Rights	Program Manager Human Rights for Women
Petra Burcikova	La Strada Czech republic	Director/National Coordinator
Lin Chew	-	Consultant
Mike Dottridge	-	Consultant
Michelle Gueraldi	Projeto TRAMA	Attorney
Ann Jordan	Global Rights	Director, Initiative Against Trafficking in Persons
Ivonne van der Kar	Foundation of the Religious against Trafficking in Women	
Carol Leigh	BAYSWAN/SWOP-USA/COYOTE	BAYSWAN Director / SWOP and COYOTE member
Alice Miller	Colombia University Schools of Public Health and international Public Affairs	Professor
Ruth Morgan Thomas	ICRSE	Chair
Frans Nederstigt	Projeto TRAMA	International Lawyer / Network Articulator
Victoria Nwogu	UNIFEM	Program Specialist, Governance and Migration
Christina Ochieng	Federation of Women Lawyers Fida Kenya	Senior Programme Officer in charge of the Women's Rights Monitoring and Advocacy Programme
Elaine Pearson	Asia Regional Trafficking in Persons Project	Research Coordinator
Fanny Polania	-	Consultant
Jackie Pollock	Migrant Action Program Chiang Mai	
Rebecca Schleifer	Human Rights Watch	Researcher / Advocate
Klara Skrivankova	Anti-Slavery International	Trafficking Program Coordinator
Ashwini Suktankar	International Commission For Labor Rights	Director
Marjan Wijers	-	consultant