

# Monitoring mechanisms and tools for NGOs to use to assess their countries' counter trafficking policies



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## IMPORTANCE OF NGO INVOLVEMENT IN MONITORING MECHANISMS

NGOs in the field of anti-trafficking in countries of origin, transit and destination that provide services, work with the experiences of trafficked people on a daily basis. They hear about what they have gone through during migration, during their forced and exploited labour situation, the abuses and the violence. But also their experiences with the authorities and if their rights as victims have been protected, ignored or even violated by them. By supporting trafficked persons in the process of regaining the control over their lives, NGOs share their experiences and frustration when trying to actually realise all the provisions that they are entitled to according to the anti-trafficking policies. As NGOs also support their clients in court cases they also come across the flaws in the legal systems, not only in the protection of the rights of trafficked persons, but also in the effective prosecution of traffickers. NGOs know from experience if anti trafficking measures (especially those that protect the rights of trafficked persons) are being implemented or not, how these measures actually work out in practise and what the effects of those measures are. Some well indented policies to counter trafficking in human beings can have unintended negative effects on (the rights of) trafficked persons, affected groups or on service providers.

NGOs are able to access a wide range of data not available to other institutions; therefore, their input is crucial in responding to these needs and reporting as well as in strategising and helping to shape policies to address them.

Although grass roots NGOs have all this knowledge and experience on the implementation and impact of anti-trafficking policies, they are often not perceived or do not perceive themselves as watch dogs and advocates.

La Strada International believes that monitoring compliance with obligations and assessment of the implementation of anti-trafficking policies, as well as the human rights impact assessment is one of the tasks of civil society organisations involved in anti-trafficking work. While some organisations whose core business is to provide assistance to trafficked persons might have limited capacity to engage in the policy debate, it is important that their experience from the ground, and the voices of those they assist are included in the (inter)national debate.

This paper provides NGOs with information on assessment tools, international monitoring bodies and complaint mechanisms and with practical assistance on how to use them.

## RIGHTS FRAMEWORK

First of all, for NGOs that want to assess the impact of counter trafficking on human rights, it is useful to know the framework that can serve as a benchmark for assessment and evaluation. In terms of determining the extent to which human-rights approach is applied within anti-trafficking, the guidelines produced by the UN Office of the High Commissioner on Human Rights offer a solid background.

**Recommended Principles and Guidelines on Human Rights and Human Trafficking**  
(2002 and 2010: UN Office of the High Commissioner on Human Rights)

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<sup>1</sup> Parts of this desk research are based on the chapter **Policy recommendations on anti-trafficking: How to go about them and how to advocate for them**, by Klara Skrivankova in the ENPATES Handbook (2011)

The recommended principles and guidelines are a framework document aimed at developing human-rights based responses at each stage of the anti- trafficking process and to promote and facilitate the integration of a human rights perspective into national, regional and international anti-trafficking laws, policies and interventions. The guidelines were developed in 2002. In 2010, these guidelines were further developed into a commentary that details how the application of each of the guidelines can be implemented (and hence also assessed) on the ground.

The Trafficking Principles and Guidelines are divided into two parts. The first part contains 17 Principles which, taken together, are intended to provide a foundation for the development, implementation and evaluation of a rights-based response to trafficking. The Principles have been designed for use as a checklist against which laws, policies and interventions can be measured.

The Principles are organized under four headings:

1. The primacy of human rights 2. Preventing trafficking 3. Protection and assistance 4. Criminalisation, punishment and redress

The Principles included under the first heading are applicable to interventions at all stages of the trafficking cycle: recruitment, transport and subjection to exploitation. The Principles included under the three subsequent headings identify the object and parameters of intervention at different times in the cycle of trafficking: preventive measures before a person becomes trafficked; measures for the protection of and assistance to persons who have become trafficked; and criminal and civil proceedings.

The second part of the document contains a series of 11 Guidelines, most of which relate back to and expand upon one or more of the Trafficking Principles. Unlike the Trafficking Principles, the Guidelines are not intended to be prescriptive but rather to provide practical direction to States, intergovernmental organizations, NGOs and others on the steps that can be taken to ensure that the key Principles are translated into effective and realistic responses.

The text of the Principles and Guidelines in English, French and Spanish and text of the [commentary](#) are all available online.

### **Rights of trafficked persons in the EU**

(2013: European Commission)

This document provides a practical and comprehensive overview of victims' rights based on the Charter of Fundamental Rights of the European Union, EU directives, framework decisions and European Court of Human Rights case-law.

The overview can be used by trafficked persons and practitioners working in the field of trafficking in human beings and will contribute to the effective realisation of these rights by confronting authorities in the Member States to deliver the assistance and protection that victims need and deserve. It does not constitute a binding interpretation of EU legislation. All rights need to be read within the context of the full legal provision and appropriate legislation.

The document is available online in 27 languages

### **ASSESSMENT TOOLS**

There are two tools that are specifically developed for NGOs to assess the implementation and impact of counter trafficking policies on the national level.

#### ***The RightGuide***

(2010: Aim for human rights, Marjan Wijers, Lin Chew)

The Right Guide helps NGOs to assess the human rights impact of anti-trafficking measures. This strengthens their advocacy for more effective, rights-based policies against trafficking. The Right Guide is based on the most relevant human rights measures and assists in the process of assessment, using the most relevant human by presenting a step-by-step method that helps NGOs and other civil society groups to assess the intended and unintended effects, both negative and positive, of anti-trafficking laws and measures on the rights of affected groups. The policy and its

impact are measured against the human rights obligations of a State. NGOs can then use the evidence-based outcomes to advocate law or policy reforms that respect human rights of all persons.

The Right Guide can be used independently, but there are introduction workshops for NGOs that are new to using the human rights framework and support can be provided during the assessment.

The RightGuide is developed exclusively for the use of NGOs, including small grassroots and community organisations. The tool has been tested by NGOs in several countries across the globe.

The Right guide is available [online](#) in English and in French

### **E-Notes**

(2010 - E-notes project)

The E-notes project (European NGOs Observatory on Trafficking, Exploitation and Slavery) was set up to establish a Europe wide permanent monitoring mechanism (Observatory) and a comparable reporting mechanism implemented by the NGOs community and network on measures against trafficking, exploitation and slavery in Europe in order to enhance and support public institutions' policy in the field of protection and assistance of trafficked persons. The E- notes project developed a shared and comparable methodology for NGOs to monitor and report on the efficiency and the effectiveness of the anti-trafficking legislation and work that is daily carried out by governments, NGOs and other actors in the field. The methodology, develop by Mike Dottridge is mainly based on the EU framework decision (in 2011 replaced by Directive EU/2011/36) and the Council of Europe Convention in Action against Trafficking in Human Beings. The E-notes tool focusses on the implementation of the measures for protection and assistance for trafficked persons.

The research protocol contains ten sections. An introductory section collects information about the respondent and a concluding section asks for feedback. The other eight sections ask questions about anti-trafficking responses, divided into eight topics, as follows:

1. Adequacy of national legislation to stop human trafficking, slavery and servitude;
2. Existence of a structure at national level to coordinate anti-trafficking measures and existence of a referral system;
3. Identification;
4. Protection;
5. Assistance;
6. Access to justice
7. Prevention of human trafficking (children and adults);
8. Monitoring and Evaluation of Anti-Trafficking Measures.

In 2010, researchers from NGOs in 27 EU countries used the research protocol to investigate their countries' efforts on implementing the European legislation resulting in the first report on the implementation of anti-trafficking policies and interventions from a human rights perspective.

The report, including the tool used for monitoring, can be downloaded [online](#).

The following tool has been developed for the states to assist them in self-assessment of their performance. These tools can be used or easily adapted for the use by NGOs as well.

### **Measuring Responses to Trafficking in Human Beings in the European Union:**

#### **An Assessment Manual**

(2007: European Commission, Mike Dottridge)

This manual is intended to enhance the capacity of European Union (EU) Member States to develop and implement policies and strategies in response to trafficking in human beings. It presents a checklist of 55 questions asking whether particular measures have been implemented, along with indicators to measure the results. The indicators are intended to enable Member States to measure their own progress, in particular in implementing recommendations made in the *Report of the Experts Group on Trafficking in Human Beings* (published by the European Commission on 22 December 2004). The manual consists of four parts:

Part I focuses on six guiding principles, all of which are essential foundation stones if the range of other actions required to combat trafficking in human beings are to be successful. The subsequent

three parts focus on prevention (Part II), protection and assistance (Part III) and law enforcement strategies (Part IV).

In each of the four parts, the manual contains a checklist of key questions to enable Member States to assess whether they are making progress in implementing essential anti-trafficking measures. Each checklist is preceded by a summary of the measures needed and a short explanation (or 'rationale') about them. In each case, the key questions are followed by several indicators - ways of measuring

the progress of each Member State in implementing actions to stop trafficking and to protect people who have been trafficked. In relation to each of the key questions, the manual presents two sets of indicators and a suggestion as to where the information required to measure progress towards meeting each of these indicators can be obtained (known as a "means of verification"). The manual thereby intends to allow each Member State to measure its progress in implementing anti-trafficking measures. The manual can be downloaded [online](#).

## **INTERNATIONAL MONITORING BODIES**

Presenting shadow reports to international monitoring bodies is a useful way of reinforcing national advocacy and lobby in an attempt to influence policy change. There are several possibilities that NGOs in Europe can use to exert pressure on their national governments to introduce changes. Below, we will briefly discuss some of them. Please note that the possibilities listed below are not an exhaustive list and that you might find other channels that are more effective for your particular national context.

### **Council of Europe**

#### **GRETA: Monitoring body of the Convention of action against trafficking in human beings**

The Council of Europe Convention on Action against Trafficking in Human Beings is an important binding treaty to effectively fight trafficking in human beings. It sets out a series of minimum measures that states which become parties to this treaty are obliged to take with a view to ensuring the protection of the human rights of trafficked persons, the prevention of trafficking and the prosecution of those responsible for it. The assistance and protection measures required include a recovery and reflection period as well as a range of assistance and protection measures for persons reasonably believed to have been trafficked that are not conditional on a person's agreement to cooperate in any law enforcement efforts against the traffickers, and in some circumstances, a renewable residence permits to trafficked persons.

The strengths of the treaty's provisions are reinforced by the fact that parties to the treaty have all agreed to have their implementation of its provisions monitored by [GRETA, the Group of experts on action against trafficking in human beings](#). GRETA can become a very important and influential instrument in the protection of the rights of trafficked persons and in that capacity can promote the human rights based approach to trafficking in human beings. GRETA's work will be enhanced and its recommendations more relevant if it has access to all information on the implementation and the impact of the Convention.

#### *How does GRETA work?*

For the first round of evaluations, GRETA has developed a questionnaire for States to report their progress on the implementation of the Convention.

In addition to this written procedure, GRETA has also decided to visit all the countries that are subject to the evaluation. During the visit it will seek to verify the information it has received and to examine and evaluate the practical implementation of the measures taken. GRETA has indicated that during these visits they want to meet with civil society representatives, including from non-governmental and other relevant organisations. GRETA may also decide to organise hearings with

various actors carrying out work to prevent trafficking, to assist and protect trafficked persons and to bring to justice those responsible for violations of the human rights of trafficked persons.

#### *NGO involvement*

In its questionnaire for the governments GRETA has indicated that civil society might be invited to engage in the governments' response to the questionnaire.

Several governments that have been evaluated, have indeed included the input from NGOs. Either because the NGO was part of the national working group or task force, or the governments had requested NGOs to provide answers to the questions dealing with victim protection or governments have asked NGOs to complete the entire questionnaire.

GRETA has expressed their interest in receiving independent information directly from civil society over NGO involvement in the governmental official report to GRETA, based on the **questionnaire**. NGOs can do that by answering some or all of the questions in the questionnaire and send the response directly to GRETA secretariat.

NGOs can also decide to draft an alternative report, by one organisation or together with several other organisations in the field of anti-trafficking. La Strada International and Anti-Slavery International have developed a Guidance for NGOs on how to comprehensively report on the practical implementation the Convention. It includes some examples of issues to consider and under which articles to raise them.

When GRETA visits the country sometime after receiving the official governments report, NGOs can organise a roundtable or other platform for civil society, including the NGOs working in the field of anti-trafficking and other relevant organisations, to meet with members of GRETA. Especially, if a NGO alone or together with other has submitted an alternative report to GRETA, during the round table or other meeting, they can use the roundtable to further explain and elaborate on the issues that you have described in your alternative report.

GRETA may also be interested in visiting a shelter for trafficked persons, or in another way meet people affected by trafficking. If NGOs want to facilitate this, it is important to organise such a visit well in advance with the organisations that provide direct assistance to trafficked persons.

## **United Nations**

The main two bodies that are concerned with the issue of trafficking at the UN level are the UN Office of the High Commissioner on Human Rights (UNOHCHR) and the UN Office on Drugs and Crime (UNODC). For assessment of the human rights dimension of trafficking, the various human rights mechanisms of the UN can be used.

The UNOHCHR page [List of Human Rights Issues](#) provides with access the documents of all relevant bodies on slavery, migrant rights, torture for example. The UNHCHR page [Human Rights in the World](#) enables practitioners to search for documents of the Charter-based bodies and of the Treaty bodies by country. This is useful for carrying out country-based research.

Click on the relevant country for compiled reports on that country. To be sure you access the most up-to-date materials on the country, click on "Full list of documents in the Charter-based bodies database" and "Full list of documents in the Treaty Body database" links on the country page.

Measures for compliance with international treaties include signature, ratification, and enforcement of international agreements. Once a state signs and ratifies a treaty, it is subject to monitoring by U.N. committees, which receive input from non-governmental organizations (NGOs). Additionally, states are expected to submit regular reports regarding their level of compliance with the treaty. The United Nations Human Rights Council also issues mandates to thematic working groups, special rapporteurs, and country rapporteurs, which help to monitor compliance with or abuses of certain treaties.

To engage with the United Nations process (like interventions at the Human Rights Council or participation and organisation of events at the Conferences of the Parties), NGOs need to have obtained a consultative status with the UN Economic and Social Council (ECOSOC). To date, globally some 3,400 NGOs enjoy this status. Information on how to apply for this status can be found [here](#).

To attend some conferences and meetings convened by the United Nations, NGOs might not need to have the ECOSOC status, but will have to be registered for accreditation in advance.

### **The UN Office on Drugs and Crime**

The [United Nations Convention against Transnational Organized Crime](#) (2000) is the main international instrument in the fight against transnational organized crime. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organised crime:

- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- the Protocol against the Smuggling of Migrants by Land, Sea and Air; and
- the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Countries must become parties to the Convention itself before they can become parties to any of the Protocols. When a country ratifies the UNTOC and/or any of the protocols attached to the Convention, it takes on a legal obligation to implement the provisions of that treaty. However, there is often a difference between rights recognised by a government in law and the rights enjoyed by the people resident in a country.

Unlike other UN Conventions, the UNTOC lacks a review mechanism to check on any disparity, to monitor the government's implementation of the UNTOC and its protocols and to identify best practices which can be shared with other countries.

A review mechanism can provide a structured and on-going monitoring process to see how conventions and protocols are being put into practice; identify what good practices can be shared, and what technical assistance may be needed to help a country in implementing and using the Convention and its protocols.

In 2008, at the UNTOC 4<sup>th</sup> Conference of the Parties, national governments acknowledged that without an effective monitoring mechanism it was difficult to measure progress made in implementing UNTOC. An intergovernmental working group was established to discuss possible mechanisms to review UNTOC's implementation, so far without results.

The Global Alliance against Traffic in Women (GAATW) is advocating for a [victim centred review mechanism](#) in which civil society is involved.

### **The UN Office of the High Commissioner on Human Rights**

The Human Rights Council has 47 elected members that cover five different regional groups. It meets three times a year - March, June and September. The Council has two mechanisms that provide opportunities for anti-trafficking advocacy:

- a) The system of special procedures
- b) The Universal Periodic Review process

#### **United Nations Special Procedures**

The "Special procedures" are mechanisms established by the Human Rights Council to address either specific country situations or thematic issues. As of 2011, there were 33 thematic and 8 country mandates. Those who hold the mandates are Special Rapporteurs, Independent Experts, Special Representatives of the Secretary General or members of Working Groups. The mandate allows Special Procedures examine, monitor, advise and publicly report on major human rights themes and phenomena worldwide (thematic mandates) or on human rights situations in specific countries (geographic mandates) worldwide, irrespective of convention ratification. They also have the

facility to raise urgent allegations in relation to particular cases or trends. Mandate holders act in their personal capacity. They are not UN staff members and are not paid by the UN. OHCHR staff provides some, but limited support to mandate holders.

Thematic mandate holders relevant to our work include: Special Rapporteurs on Contemporary Forms of Slavery, Special Rapporteur on the sale of children, child prostitution and child pornography, Special Rapporteur on the human rights of migrants; Special Rapporteur on trafficking in persons, especially women and children. More information on the Special Procedures can be found [here](#).

### *What can the Special procedures do?*

#### *Country Visits*

Usually, the Special Procedures visit 2-3 countries per year, sometimes together with other relevant mandate holders. They can only conduct a visit if they have been formally invited by the government. During the visit, the Special Rapporteur meets a range of individuals and organizations (e.g. public officials, NGOs, IGOs, the diplomatic community, academics and religious leaders, traditional leaders, witnesses, victims or their families).

NGOs can contribute to the visits in a number of ways. They can provide background information prior to the visit and highlight any issues (including controversial ones), suggest places to visit and individuals and organisations to meet. They can also work with the Special Rapporteur during the drafting of the report and provide input on the recommendations. In the national context, the report can be used to advocate with the Government and to lobby for implementing the recommendations. Depending on their budget, Special Rapporteurs sometimes convene events, such as seminars and roundtables, focused on the implementation of their recommendations. It is common that a visit is concluded by a public event, such as press conference. The Special Rapporteur also usually puts out a press release at the end of his/her visit. A report is prepared on each visit, including findings, conclusions and recommendations. The report is presented to the Human Rights Council during one of its sessions.

#### *Annual (Thematic) Reports*

Each year the Special Rapporteurs present reports to the Human Rights Council. The reports are divided into two parts. The first part is a sort of an annual report and covers the activities undertaken in the previous year, such as country visits, meetings attended and any communications issued. The second part is a thematic report.

Like with the country visits, NGOs can contribute to the thematic reports. For example, NGOs can suggest topics for thematic reports, based on their knowledge of the local situation, emerging trends or to highlight issues that are otherwise neglected. They can also respond to the Rapporteur's questionnaire or calls for evidence. Once the report is completed, NGOs can organise side events during the session when the report is presented to the Human Rights Council. Interventions during the interactive dialogue directly at the Human Rights Council session in Geneva take a form of a side event, oral statement and/or written statement.

#### *Communications (for complaints)*

Special Procedures are also mandated to deal with individual complaints by sending Letters of Allegation and Urgent Appeals to governments (and to others, such as UN bodies, IGOs). The mandate holders do this based on information received or situations brought to their attention. The information can be submitted by victims or persons on their behalf, by NGOs, IGOS or UN bodies and must be reliable, credible and relevant to Rapporteur's mandate. The Letters of Allegation or Urgent Appeals concern either individual cases of human rights violations, general situations of human rights concern or laws that do not meet international standards. At the end of each year, the Letters of Allegation and Urgent Appeals sent are collated in a report that is presented to the

Human Rights Council. The communications issued are confidential until published in the reports to the Human Rights Council. The sources of information for the communication are kept confidential indefinitely.

#### *How can NGOs submit information for communications?*

The majority of special procedures have a form for use. The information can be found on the relevant section of the [website](#) of the Office of the High Commissioner for Human Rights. It is important that as much information requested in the form as possible is included. The more details and the more exact the description is, the more credible the information appears. If sufficient information is provided the first time around, there will not be a need for the Rapporteur to request additional information and a communication can be issued faster. It is important to explain and describe any steps that have been taken at national level (whether a complaint has been filed; any investigations undertaken; arrests; trials; assistance provided etc.) As the Special Procedures are not judicial bodies, there is not condition in relation to the national legal processes - you do not have to wait until all the national legal avenues have been exhausted, as it is the case with international human rights courts.

#### **Universal Periodic Review (UPR)**

The Human Rights Council has been mandated by the UN General Assembly to periodically review the fulfilment by each State of its human rights obligations. The period of review is four years, so each country is reviewed every four years.

The review has several components:

First, the country under review prepares a document outlining what it has done to adhere to its human rights obligations. The document should not exceed 20 pages and is supposed to be prepared in consultation with all relevant stakeholders at the national level.

Second, the Office of the High Commissioner for Human Rights (OHCHR) compiles UN information into a 10-page report. For this, the OHCHR uses reports of UN bodies such as treaty bodies and special procedures.

Third, the OHCHR prepares a 10-page summary of information by other relevant stakeholders, such as NGOs or research institutions.

Each UPR session lasts three hours, and takes the form of an interactive dialogue between the Working Group and the State under review. The State under review has approximately one hour for its presentation, replies to questions, and closing remarks. Member and observer States make comments, recommendations and ask questions on any human rights issue. After the review, there is a report on the session summarising the discussion and listing the recommendations made to the State under review, it also notes whether the State accepted or rejected the recommendation made.

#### *How can NGOs participate?*

There is a number of ways how NGOs can take part in the process. They can participate in the national consultation process, if one is held. They can also provide input to the OHCHR summary of stakeholders' information. There is a usual format that the submission should follow and it should not exceed 5 pages. Your five-page submission should contain the following:

- Evidence of the problem - statistics, cases, description
- Information about current law and policy relating to the issue we are raising
- Analysis of what the government is doing wrong/ not doing / what needs to be changed
- Recommendations

NGOs can also lobby States taking part in the interactive discussion prior to the UPR Working Group session in order to get them to mention trafficking, ask the State under review a particular trafficking related question or to make a recommendation. NGOs are permitted to attend the UPR Working Group sessions, but only as observers. They can make statements though at the



regular session of the Human Rights Council when the outcome of the State reviews are considered. The calendar of the UPR reviews and other relevant information about the process and submissions can be found [here](#).

The office of the UN High Commissioner on Human Rights have developed a [webpage](#) and a [Practical Guide](#) for Civil Society on the Universal Periodic Review for further information and guidelines which can be downloaded from the Civil Society [webpage](#).

### **The Treaty Monitoring Bodies**

Treaties, Covenants and Conventions are all international standards that have the binding force of law once ratified by a State. Each international human rights treaty has a committee of independent experts known as a [treaty body](#). The treaty body monitors the implementation of the treaty. Each country that has signed and ratified a treaty must submit regular reports to the treaty body about the human rights situation in the country. The relevant treaties for the issue of trafficking in human beings are:

- The Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) is reviewed by the Committee on Economic, Social and Cultural Rights
- The Covenant on Civil and Political Rights, 1966 (ICCPR), with two Optional Protocols, is reviewed by the Human Rights Committee
- The Convention against Torture, 1984 (CAT), with one Optional Protocol is reviewed by the Committee against Torture
- The Convention on the Elimination of Racial Discrimination, 1965 (CERD) is reviewed by the Committee on the Elimination of Racial Discrimination
- The Convention on the Elimination of Discrimination against Women, 1979 (CEDAW) with one Optional Protocol is reviewed by the Committee on the Elimination of Discrimination against Women
- The Convention on the Rights, 1989 (CRC) with two Optional Protocols is reviewed by the Committee on the Rights of the Child
- The Convention on the Protection of the Rights of All Migrant Workers and their Families is reviewed by the Committee on Migrant Workers.

Each committee is composed of independent experts, ranging in number from 10 to 25 members, who are nominated and elected by States parties for fixed, renewable terms of four years. They are elected by the member States, but do not represent any State.

Treaty monitoring bodies operate in a quasi-judicial manner and while their findings are not legally binding they are published and have considerable influence. As a result each body builds up case law on how to interpret the human rights instruments and some follow-up with Governments to see if they have implemented their recommendations.

#### *How can NGO's participate?*

States have to submit periodic reports to the committee ([see calendar for reporting](#)). Based on this report the treaty body presents list of critical issues and questions during the pre-session working group. At this time, NGOs can submit their shadow report in which they react to the governments' report to bring in critical issues and questions. If the country has been reviewed before, it is good to also report on the implementation of recommendations made for the committee at the previous review.

States can provide the committee with written responses to the list of critical issues within six weeks. At the session, there is a constructive dialogue between committee and State. At these sessions NGOs are invited to provide oral statements and NGOs can organise side events for members of the Committee to raise attention for the issues that civil society believes need to be discussed and included in the concluding observations (recommendations). The Committees' Concluding Observations describe what States should improve. These recommendations are not free

of obligation. Commitment by the State to the treaty implies that it has to take the recommendations of the supervisory committee seriously. Therefore, the committee sets up procedures for the state to follow up on implementation of the recommendations. NGOs are encouraged to disseminate concluding observations and recommendations at national and local levels, monitor and document State implementation, and report back to the Council or Committee to inform the State's next review.

### *CEDAW*

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an international human rights treaty which aims to eliminate all forms of discrimination against women and to promote equal rights between men and women worldwide. CEDAW is of great significance to trafficking in women and the exploitation of migrant women workers because it obliges states to uphold, promote, protect, respect and fulfil many rights which are critical in preventing and eliminating trafficking in women and the exploitation of migrant women workers and ensuring that adequate and rights enhancing protections and remedies are afforded to those affected.

The Global alliance against Traffik in Women (GAATW) has developed [a toolkit for NGOs for reporting to CEDAW](#).

### **UN Complaint mechanisms**

All of these bodies, apart from the CRC and ICESCR, have a complaints procedure that can be accessed by individuals or groups that believe that a State is not complying with its obligations, as long as the State has ratified the appropriate Optional Protocol or Article in the Convention. However, individual complaint mechanisms are rarely used (only 35 complaints have been filed under Article 14 of CERD in 24 years) or are used only in specific countries (28 out of 109 countries have never had a complaint filed under the first Optional Protocol of ICCPR).

Individuals or NGOs can bring information about human rights violations, or non-compliance with human rights obligations, to the UN bodies mentioned above through two procedures:

The *individual communications procedure* should be used when the victim is seeking redress for a specific human rights violation. The general purpose for submitting this type of complaint is to address individual grievances and advocate on behalf of the victim. The complaint procedure also serves to bring publicity to a specific case. The UN provides [model forms](#) for individuals wishing to make complaints.

The *complaint-information procedure* functions in a way similar to the [reporting mechanisms](#). The purpose for submitting this type of complaint is to inform the appropriate UN body about broad human rights violations that affect large segments of the population. Advocates or victims cannot ask for a remedy for individual rights violations when using this complaint mechanism. The communication itself is only one piece of information that the UN body considers in making a report.

In choosing to seek enforcement of human rights obligations, advocates should carefully evaluate two factors. First, investigate which mechanisms are available to them based on the treaty ratification of their national government. Only those nations which have ratified a treaty are bound by its contents. For information about particular nations, see the *status of ratification* on the [country page](#) of interest. Second, consider what the desired remedy or outcome for the victims of human rights violations is. Each body and mechanism provides a slightly different result. Additionally, there are also specific differences between the procedures, such as whether the communication remains confidential, that must also be considered.

The international enforcement mechanisms should only be addressed after attempting to obtain redress through the national legal system. Firstly, the UN enforcement bodies that accept direct complaints require [exhaustion of domestic remedies](#) before a case can be considered

admissible. Secondly, and perhaps more importantly, the remedies available under international law may not always be advantageous to the individual victim. UN mechanisms are often very slow and time-consuming and confidentiality of the complainant cannot always be ensured. Victims of violence may have limited resources in which to invest in a lengthy procedure. Furthermore, safety for the victim should be a paramount concern, and the UN is limited in its ability to intervene and protect individual victims of human rights violations.

### **Regional human rights bodies**

Regional human rights mechanisms play an important role in monitoring government compliance with human rights obligations and in providing a place for individuals and groups to hold governments accountable when a government fails to protect and promote human rights. Regional human rights mechanisms have been established under treaty agreements between governments in the major regions of the world, including the Americas, Europe, and Africa.

[The International Criminal Court](#) (ICC) is an independent, permanent court that tries persons accused of the most serious international crimes: genocide, crimes against humanity, and war crimes. The ICC is based on a treaty ratified by 100 countries.

[The European Court of Human Rights](#) enforces the **European Convention on Human Rights**, which protects rights, such as the right to life, freedom from torture, the right to vote, and freedom of expression. Individuals and countries bring complaints before the Court, which then passes judgment. The judgments of the Court are binding and typically involve compensation for the victim of the violation.

[The International Labour Organization](#) (ILO) oversees a group of legally binding conventions that guarantee certain human rights related to work, especially: “freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.”

### **Monitoring of the International Labour Standards**

The International Labour Organization (ILO) is another UN agency with a strong relevance to the anti-trafficking efforts. For those working on trafficking for forced labour, engagement with this organisation can be very important, organisation is the home to all the conventions relating to forced labour and rights of workers (and migrant workers). The ILO is the only tripartite UN organisation, made up of workers, employers and governments. Unlike other UN mechanisms, the tripartite structure means that NGOs do not have a formal avenue for input. However, there are many ways how NGOs can work with the ILO - for example through working with national unions or global union federations or the ILO supervisory mechanisms. There are two key ILO supervisory mechanisms that we can use for our international advocacy.

#### ***ILO Committee of Experts***

State parties to ILO Conventions must submit a periodic report- every 2 years for the ‘Core Conventions’ (for example the Forced labour Convention C29 and Convention on Worst Forms of Child Labour C182) and every 4 years for other Conventions. The report should be detailed, including all relevant laws, regulations, policy and action taken by the State party. The Committee of Experts on the Application of Conventions and Recommendations is a group of independent experts. It sits annually from November to December to review government reports, and make a comprehensive assessment of a states’ compliance with the Conventions. The Committee of Experts issues its report each year in February. The Committee of Experts can make “Observations” and “Direct Requests” to governments. Observations usually indicate long-standing problems

implementing a Convention. Direct requests for further information or clarification can supplement Observations or may stand on their own.

#### *How can NGOs provide input into this process?*

Official ILO and UN documents and submissions made by workers' and employers' organisations are treated as primary sources of information with a direct bearing on the examination of the State report. Employers' and workers' organisations can submit 'comments' (sometimes also called 'complaints') to the Committee of Experts on ILO Conventions. They can do so whether or not they are based in the country concerned. Comments highlight breaches in the State's application of the Convention.

NGOs may not submit Comments directly, but can supply information to workers' and employers' organisations willing to take the matter up for them. The ILO must receive material by the end of August to ensure that the Committee of Experts considers it as the following November- December session. So, NGOs wishing to submit information through workers' and employers' must send it to them in advance of that, usually by mid-July.

ILO submissions need to follow a particular structure and include the following:

- Evidence that there is a problem
- Information about the legislation in place with relation to child labour, forced labour, and particularly anything directly related to domestic work or child domestic work; any policy action by the government; any programmes put in place by the government
- Your analysis/critique of why the law and policy in place isn't working and why the problem persists
- Recommendations: what does the government need to do.

#### **US Department of State Trafficking in Persons Report**

Since 2000, the US State Department (the [Office to Monitor and Combat Trafficking in Persons](#)) published annually reports that evaluate government on their performance against minimum standards for the elimination of trafficking in persons. The standards are anchored in the Trafficking Victims Protection Act of 2000, as amended. This report is submitted to the relevant committees in the US Congress. This report tends to have a significant political weight. Often the results of the evaluation also inform the direction of where funding is needed that the department also makes available.

#### *How can NGOs participate in the process?*

NGOs can either provide information in their own country or submit directly to the State Department. At the country level, there is a person responsible for the anti-trafficking portfolio at the American Embassy. The official will seek information from the national NGOs, so it is useful to get in touch with the person and provide them with information. The embassies compile a report that is then sent to the Department of State in Washington and used in the preparation of the final report.

When submitting directly to the State Department, NGOs will be invited to make submission through a request (usually a list of questions) published by the Ambassador-at-Large responsible for the work of the Office to Monitor and Combat Trafficking in Persons. The rules for submission of the information are similar like with the other submission processes. As a general rule, comment only on those questions where you can demonstrate direct knowledge on and recommend how you would like to see any deficiencies remedied. Include any relevant data, case studies, photographic materials as well as information about laws and policies.

The Department keeps the sources of information confidential.

It is important to bear in mind that the final country report of the US Department of State is relatively brief, containing only few pages on each country. It focuses on highlighting progresses,

changes in trends, or issues that have become important in the years since the last evaluation has occurred.

## **Tips for submitting**

Although all monitoring mechanisms and committees have their own procedures and working method there are some general tips and tricks for submitting information on critical issues and recommendations to increase the effectiveness and efficiency of your advocacy.

### *Target groups*

Often, the recommendations will be aimed at policy-makers and decision-makers. Your primary targets must be those individuals who have the authority to make your change happen (or who can also block your attempt to achieve a change). It is important to bear in mind that those we aim our recommendations are often responsible for more policy areas than just trafficking in human beings. Therefore you will need to form your recommendations in such a way that they not only stand out from any other similar documents they might get, but more importantly ensure that your recommendations are devised simply and clearly.

Identify who should be implementing the respective recommendation. It is not sufficient to just say that the government is responsible, identify the concrete ministry, agency or department.

### *Prioritise*

Ideally do not make more than 5 recommendations at the end of a document. If you need to make more than five, indicate which among the list of recommendations are priority ones.

### *Focus on implementation in practice and impact of measures*

The importance of civil society involvement in monitoring and evaluations is that NGOs have evidence from their work on grass-roots level and know whether legislation is implemented, or whether the framework exists only in theory. Their experience and case studies they document show the extent to which legislation and counter-trafficking measures are being implemented, whether they benefit trafficked persons and what the impact the policies have on the rights of trafficked persons. This can be documented through case studies and examples of trends.

### *Time frame*

Give a time frame for implementation of the recommendations - be as specific as you can. If no specific timeframe can be given, cluster your recommendations as short-, medium- and long-term.

### *Be realistic*

It is unlikely to achieve the optimal solution straight away. Consider what change would be an acceptable stepping-stone. A good strategy might be to include one "wish list" type recommendation - that way the other recommendations will appear more realistic.

### *Be clear, concrete and short*

Make the alternative report as comprehensive and as succinct as possible. Your report should not exceed 10 pages - however, you can always include important information, such as case studies or statistics, in an annex. Give concrete examples to illustrate your arguments (the best is to demonstrate a trend using case studies of repeated problem, or statistics). One-off situations or extreme examples might not be the best way to illustrate the reality. Remember, the report has to be well evidenced, so that it can be considered a credible source of information. It might also be useful to demonstrate, using examples, how the official data and information corresponds or differs from the reality NGOs witness on the ground.

### *Work together*

If possible and with a view to making your contribution as effective as possible, it would be advisable for your organisation to consider working together with others when preparing information to submit. Experience shows that working together with a group of NGOs, tasks and information gathering can be divided and NGOs can focus on the information on issues that they are specialised in. This results in improved detailed information and less workload per organisation.

### *Briefings*

In addition to publishing recommendations, briefing to civil servants and ministers can be a useful tool in advocating for change. Clarity and brevity is even more crucial when it comes to briefings. Politicians in particular have a short attention span and if you can get your points across within a few paragraphs, it is less likely that they will be interested in getting involved.

Please consider the following points when writing a briefing:

Organise your briefing around three main points or asks. Any more points will dilute attention and decrease the effectiveness of your briefing