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Economic Commission for Latin America and the Caribbean (ECLAC)
International Organization for Migration (OIM)

Hemispheric Conference on International Migration: Human Rights
and Trafficking in Persons in the Americas

Santiago, Chile, 20-22 November 2002

REPORT

Government representatives attending the Hemispheric Conference on International Migration: Human Rights and Trafficking in Persons in the Americas, held in Santiago, Chile, drafted a set of preliminary conclusions in order to set forth the main points made and discussed at the plenary meeting. This preliminary document was then submitted to the Governments represented at the Conference for their further consideration over a period 45 days. Those Governments wishing to do so conveyed their observations on the preliminary conclusions to the Presiding Officers of the Conference, who, with the benefit of these additional comments, have now developed a final report. The latter, which is to be distributed to the Governments, civil society organizations, international agencies and the general public, will also include: (a) the final set of conclusions, based on supplemental observations received from the Governments; and (b) the document prepared by the participating civil society organizations.

I. INTRODUCTION

The Hemispheric Conference on International Migration: Human Rights and Trafficking in Persons in the Americas, which took place in Santiago, Chile, from 20 to 22 November 2002, was organized by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) and the International Organization for Migration (IOM), with the collaboration of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The event was co-sponsored by the United Nations Population Fund (UNFPA), the Inter-American Development Bank (IDB), the United

Nations Children's Fund (UNICEF), the International Labour Organization (ILO) and the Latin American Economic System (SELA). The United States also provided financial support for this event as part of its efforts to assist in the follow-up of mandates relating to the Third Summit of the Americas.

The Conference was attended by representatives of 41 ECLAC member States, representatives of international organizations, prominent scholars and a number of civil society organizations working in the field of migration. The latter also conducted a parallel event. ECLAC offered its facilities for the realization of both events.

II. OBJECTIVES OF THE CONFERENCE

General objective

The overall objective of the Conference was to strengthen cooperation among Governments in the field of international migration, to help identify mechanisms for protecting and promoting the human rights of migrants and for combating and preventing trafficking and, in so doing, to fulfill the relevant international mandates and agreements in these areas.

Specific objectives

- To contribute to a fuller understanding of the multiple determinants and consequences of international migration in accordance with the conclusions, recommendations and resolutions of various international forums and organizations that have deliberated upon the issue.
- To consider and disseminate information about international mandates, activities and agreements concerning the human rights of migrants.
- To contribute to the convergence of regional consultation mechanisms dealing with migration by ensuring the broadest possible participation in the Hemispheric Conference by Governments, representatives of regional processes concerned with migration (the Summit of the Americas, the Regional Conference on Migration or “Puebla Process”, the Puebla-Panama Plan and the South American Conference on Migration), international organizations, non-governmental organizations, civil society institutions and experts on migration.
- To identify international migration issues for consideration at the next Summit of the Americas.

- To present the main features of a proposed inter-American programme within OAS for the promotion and protection of the human rights of migrants, including migrant workers and their families, as called for in the Plan of Action adopted at the Third Summit of the Americas.
- To consider the guiding principles and basic recommended activities for systematically combating and preventing trafficking in persons in the Americas.

III. CONCLUSIONS

The participants in the conference acknowledged the existence of a number of international instruments for the protection of the human rights of migrants and the prevention of trafficking in persons. Presenters encouraged countries to consider ratification of these instruments, as well as implementation of those ratified to date..

A. MIGRATION AND THE HUMAN RIGHTS OF MIGRANTS

Presentations and ensuing discussions on the topic of migration and the human rights of migrants made reference to the following points:

1. International migration flows will continue to increase in the continent, inasmuch as no change occurs in the structural conditions driving such flows.
2. Notwithstanding the activities already being pursued in an effort to arrive at an understanding of migratory phenomena and the status of migrants in the Americas, there is a need for more systematized data on these subjects.
3. Multilateral forums and regional processes, such as the Summit of the Americas, the Regional Conference on Migration, the South American Conference on Migration, the International Migration Seminar for the Caribbean and the International Migration Policy Seminar for the Caribbean Region -- whose plans of action reflect shared interests and concerns with respect to the defence of the human rights of migrants and the effort to combat trafficking in persons -- are effective channels for dialogue and cooperation regarding these issues. At the same time, greater convergence is needed in order to maximize efforts and use of resources.

4. An important challenge to be met throughout the world is to reconcile the war against terrorism with respect for and the protection of the human rights of migrants. While recognizing that States have the sovereign right to determine who shall enter or remain in their territories, and the duty to protect their citizens and residents, States also are urged to observe their obligations to provide migrants with humane treatment and full protection of their rights
5. It is vital that the greater vulnerability of women, girls and boys be taken into consideration in the design of differentiated policies and programmes and in the implementation of activities dealing with migration, so as to ensure gender equality. As these vulnerabilities are most often present in situations of irregular migration, coordinated efforts are required at the national and international level to combat both migrant smuggling and trafficking in persons.
6. In order to promote and protect the human rights of migrants in the most effective manner possible, consideration should be given to realizing comprehensive and specific initiatives on the basis of coordinated efforts involving Governments, civil society, the private sector, and particularly the communities and organizations of migrants themselves.
7. The participants welcomed the working document presented by IACHR, in coordination with IOM, on an inter-American programme within the framework of OAS for the promotion of the human rights of migrants, which could offer a concrete response to the mandate issued at the Third Summit of the Americas, and serve as well as a valuable conceptual and programmatic framework for the adoption of initiatives in this field.
8. Some presentations highlighted the need to facilitate access to basic health care, including those concerned with the sexual health of men and women migrants, regardless of their migrant status or whether they are in situations of transit, destination, or return.
9. More information should be offered to migrants and broader research should be undertaken with a view to averting contagion and taking preventive measures with respect to sexually transmitted infectious diseases, including HIV/AIDS.
10. To address the problems faced by women migrants in a comprehensive and coordinated manner, consideration should be given forming strategic alliances at the national and international levels between mechanisms advancing of women's concerns, migration authorities, civil society organizations, and the private sector.

11. Mindful of the need to provide effective consular protection, Governments are urged to consider allocating more resources for this purpose and to promote efforts to seek out international cooperation mechanisms.

B. TRAFFICKING IN PERSONS

Presentations and ensuing discussions on the topic of trafficking in persons in the Americas made reference to the following points:

1. Trafficking in persons constitutes an egregious violation of human rights; a sustained, global and coordinated effort on the part of the public and private sectors is required to eradicate such activity. Such an effort should include measures by States to prevent and combat human trafficking through targeting, investigating, apprehending and prosecuting the perpetrators of such crimes.
2. An essential conceptual framework is contained in the provisions set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and, in particular, the provisions that treat a trafficked individual as a victim of the crime of trafficking in persons
3. Included within and complementary to this Protocol, some key measures and activities identified for combating these illicit practices are:
 - Assign primary importance to the human rights of victims of trafficking in persons and enforce national and international provisions on the subject, as well as regional recommendations.
 - Promote more extensive data collection and research concerning the origins, causes and patterns of such trafficking in the Americas.
 - Recognize the need to address and alleviate contributing factors in the proliferation of trafficking in persons, especially women, girls and boys, such as lack of economic opportunities, low status of women and girls, a low age of sexual consent and the disintegration of family units.
 - Strengthen multilateral coordination in the formulation and implementation of government programmes and in the adoption of initiatives involving the participation of civil society and the private sector.

These undertakings could entail the following:

- (i) The development and strengthening of laws and criminal penalties against trafficking in persons (the protocol defines trafficking);
 - (ii) Prevention, to include information campaigns, special programmes for women, girls and boys;
 - (iii) Assistance and protection of victims, including return, reintegration and psycho-social assistance;
 - (iv) Victim and witness protection mechanisms, including at a minimum temporary residence;
 - (v) Training of public and private relevant entities;
 - (vi) Initiatives for systematizing the collection of data on trafficking cases, including data on conviction rates against traffickers;
 - (vii) Information sharing, including on research and programs
 - (viii) Anti-Corruption monitoring mechanisms;
 - (ix) Coordination among the various sectors of society.
4. Priority should be accorded to achieving ratification and promotion of adherence to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
5. In like fashion, initiatives should be effected at the national level to enact and implement laws specifically designed to combat trafficking in persons on the basis of criminalization, prevention and victim protection; as part of this process, best practices in each of these areas should be identified and disseminated.

The discussions at the Conference also reaffirmed the need to base activities as well on the principles set forth in the 1951 Convention and 1967 Protocol relating to the Status of Refugees.

Neither the preliminary nor the final version of these conclusions is binding upon any State.

C. CIVIL SOCIETY ORGANIZATIONS

The participants in the Conference took note of the document prepared by the representatives of civil society (see appendix).

D. FOLLOW-UP

The Chairperson, in coordination with the Conference organizers, will present these conclusions, together with a full report on the Conference, to the institutional structure of the Summit of the Americas, United Nations agencies and the public at large for the purpose of documenting actions in fulfilment of current mandates and stimulating interest in possible future initiatives to promote and protect the human rights of male and female migrants and to combat trafficking in persons in the Americas.

Note: Canada requests that when the conference proceedings are published, the statement of the Canadian delegation attending the indicated conference, as read at the conference plenary and transcribed below, be published immediately following the paper titled “Globalization and Migration: Canada’s response to the Chinese Boat Refugees” (ECLAC reference document #DDR/9; date: 18 November 2002).

“Thank you Madame Chair.

Regarding the views expressed by our esteemed colleague Mr. Wong, Executive Director of the Vancouver Association of Chinese Canadians, the Canadian delegation just wants to say that we fully respect his right to express his views.

We believe that forums like this help us — by looking at different and sometimes contrasting viewpoints — in the understanding of the very complex issues surrounding the trafficking in persons and in general enrich the process of dialogue.

The events which were portrayed regarding the boat arrivals of migrants to Canadian coasts in 1999 and their aftermath constituted a serious law enforcement event faced by the Government of Canada in general, and the Citizenship and Immigration department in particular, which for us, underlined the difficulty of dealing with trafficking in persons.

The Government of Canada believes that constructive criticism should always be welcomed as it enriches the policy formulation process, which constitute the day-to-day business of governments.

Lastly, the Canadian Delegation wants to share with you the fact that every year Canada welcomes around 250,000 immigrants from all over the world.

Thank you again Madame Chair.”