



## Human Trafficking, Corruption and Human Rights

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I want to thank the Academy and Monsignor Sánchez Sorondo for including us in this very important summit. The International Bar Association is a global organization of lawyers, with more than 100,000 members from 170 countries and also 200 bar association and law society members. We are able to focus on the rule of law and human rights throughout the world because of the strength of our combination of individual members and bar association members. We work in many different ways to promote the rule of law and to protect human rights -- in particular, some that directly affect the purpose of this summit. I want to describe some of our activities that inter-relate and which very much relate to the focus of this summit.

First of all, we have a Presidential Task Force on Human Trafficking. I am very pleased that our Task Force is working with Commissioner Hyland and others in the U.K. in organizing and presenting training programs this year to judges, lawyers, prosecutors, police officers and others, thanks in part to one of our officers, Gillian Rivers, who is also here today. We are also going to be conducting training in Singapore. The common thread of both countries is that they have new Modern Slavery Acts. We look forward to improving the enforcement of those Acts in those countries.

Very importantly, we will be publishing this month a report of our Task Force about the impact of corruption on human trafficking. The report will provide detail and a framework on many of the stories about the impact of corruption that we have heard over the last two days. Corruption is an endemic feature of human trafficking. I think it may even be fair to say human trafficking could not exist without corruption. A police officer demands a bribe to avoid the presence of a child in a brothel. An immigration official receives payment to provide a false passport or to look the other way. A judge dismisses a trafficking case in exchange for a share of the trafficker's profits. A law enforcement official deports the trafficking victim to prevent her testimony against a criminal defendant. Or a labor inspector receives a bribe to ignore forced labor at a work site. These scenarios occur on a daily basis across the globe. We need to find and present more information about these problems. We hope that our report provides a first step towards that goal.

Many studies show a direct correlation between human trafficking and corruption and conclude that countries with high levels of institutional corruption are more likely to have high levels of human trafficking within their territory. The OECD compared the U.S. Trafficking in Persons 2014 report with Transparency International's 2014 Corruption Perception Index, and not surprisingly there was a very, very strong correlation. These findings, of course, are supported by victims' accounts, which corroborate the thesis that corruption among public officials facilitates the trafficking of persons. For traffickers and those assisting them, paying or soliciting bribes is high reward and low risk. In an industry that trades in human beings as commodities, bribes likely constitute the largest overhead cost. One syndicate was reported to spend about \$4.5 million a month to bribe public officials and law enforcement. Corruption can also help cement ties between traffickers and those who are charged with bringing criminals to justice. Even the appearance of corruption can give traffickers the power to manipulate their victims. Traffickers frequently maintain control by convincing victims that law enforcement is complicit in their exploitation.

Our report goes into detail about the manner in which public officials themselves often serve as traffickers. There are many reports of direct involvement in both sex trafficking and labor trafficking. Public officials often facilitate trafficking in a variety of ways -- through recruiting victims, through facilitating transportation of the victims, through organizing unauthorized illegal entries and departures to and from countries, and through the falsification of documents, among others. Most importantly, we see that public officials can serve as facilitators of impunity. Traffickers face little to no risk that they will be held accountable for their crimes. We have seen that through the stories that many speakers have told over the last two days. We know that the number of criminal trafficking prosecutions per year is pathetically small compared to even the most conservative estimates of numbers of people who are involved in trafficking. Millions, perhaps tens of millions, are held in modern day slavery worldwide. Despite that, the U.S. Trafficking in Persons Report for 2014 reported that there were only about ten thousand trafficking prosecutions worldwide during that year. According to the UNODC, 41% of state parties to the Trafficking Protocol reported fewer than 10 trafficking convictions per year. Public officials sometimes receive free services from traffickers. We have included in the report allegations of corruption aimed directly at anti-trafficking units. We have also seen how broad diplomatic immunity can often serve to protect some who are engaged in trafficking.

As a result, the report makes a number of recommendations that we hope can be followed by many different organizations. First of all, as this conference shows, it is important to foster a culture of monitoring and assessments. We need to develop better data on trafficking and on how corruption impacts it; to improve the states' capacity to fight trafficking and related corruption; to take steps like reforming human resources management systems by improving rotation systems or having four eyes -- two people -- serving in similar roles to avoid corruption; to improve training about red flags of trafficking; to create codes of conduct; and to better tie together within governments anti-trafficking and anti-corruption units. And most of all, we need to increase the punishment of those who are involved in trafficking, so that it is no longer a high reward, low risk occupation.

One way in which corruption impacts trafficking is corruption in the judiciary. Another IBA Presidential Task Force that I have been pleased to start has been focusing on judicial integrity and judicial corruption. We published a report just last month on a worldwide survey that we conducted with the Basel Institute of Governance through our members and through supporting organizations like the International Association of Jurists. We received more than 3,000 responses around the world about how judicial corruption actually arises. We spent time talking to organizations that fight corruption on a daily basis, like the UNODC, OECD, Transparency International and others, and we found that nobody had good data on what actually happens when judges are corrupted. And, of course, judicial corruption does foster human trafficking as well. So the report presents the very interesting survey results; it is available on the IBA website.

The report showed that people were concerned principally about two areas. One is bribery of judicial officials; that includes judges, prosecutors, court clerks and others. But people were even more concerned about undue influence in political systems, undue influence on judges, prosecutors and others preventing them from doing their job. While the bribery concerns focused more on the developing world, the concerns about undue influence and political interference arose throughout the world, including countries where there is thought to be a strong rule of law.

We are using this survey and moving on to a number of additional projects in which we hope that the IBA -- given our worldwide impact, given both our individual members and our bar association members -- can help fight judicial corruption and, for purposes of this summit, help fight human trafficking by reducing judicial corruption. First of all, we are going to focus on best practices for prosecutors and also for bar associations. There are a number of best practices published by the UNODC and others that focus on the judicial systems, but we found that there are not best practices either in terms of how prosecutors should investigate instances of judicial corruption -- particularly given the need to protect judicial independence and not let prosecution or allegations of corruption influence judges who want to rule against the government on various cases -- or in how prosecutors should interact with lawyers, third parties, judges and others involved in the system in order to avoid corruption.

We are also going to look at creating, with the World Bank or other organizations, a certification process. Just as companies may obtain certification that they have in place proper systems and procedures to avoid corruption, we are going to consider whether that process can be adapted to develop a certification system for judiciaries that they have in place proper systems to avoid corruption. We hope that this can really lead to competition among judiciaries in parts of the world that are trying to attract investment or perhaps that certification could become a mandatory requirement before the receipt of financing.

We also saw the need to change the expectation about corruption. We are going to work first with a number of countries, including Mexico, Argentina, Korea and Ghana, to create an anti-corruption declaration that can be signed by judges, lawyers, prosecutors, court clerks, that can be published on the bar association website and that can certify that these individuals who will not engage in corrupt activities. We hope that such a declaration will change the questions that the public may ask of them when, for example, a request for money is made in order to pay a bribe. And we are going to take a number of other steps too, both through our IBA committees -- such as our Judges Forum, Business Crime, Litigation and Anti-Corruption Committees -- and also by working with others like the International Association of Jurists and the International Commission of Jurists.

In a very related project, we issued just last week the IBA's Practical Guide on Business and Human Rights. We hope that by publishing this Practical Guide we can focus lawyers on the important role that they play in guiding their clients and in meeting their own responsibilities under the UN Guiding Principles on Business and Human Rights, also known as the Ruggie Principles. We hope that by focusing lawyers throughout the world on these principles, they will advise their clients on how to develop human rights policy commitments, to assess impacts of their the human resources policies and their human rights policies, to avoid trafficking, to make sure that they are not unwillingly hiring trafficked persons. Lawyers must also consider how to protect their clients' supply chains, how to provide contract terms to again provide them with protection, how to engage with local communities in order to avoid trafficking and local impacts, and how to create effective due diligence and remediation processes that are required by the UN Guiding Principles on Human Rights. We believe the

lawyers do not have a good understanding of their clients' needs in this respect. We have heard from their clients, from the businesses, that they are intensely focused on the UNGPs, which they do not consider to be soft law but rather as important as any legal requirements. They need their lawyers to help them comply. We hope that through publication of this Practical Guide and a much longer Reference Annex that will be published in the next month or so, lawyers will be better able to protect against human trafficking as well as other human rights impacts.

Finally, yesterday Michael Gerrard talked about the relationship between climate change and human rights. A year before the Pope's encyclical, the IBA published our report on Climate Change Justice and Human Rights. We focused on this issue because climate change impacts those who are least able to protect themselves and their rights. We were urged to do so by Mary Robinson, who, as you know, has led the effort to include human rights in the COP 21 treaty that was signed in Paris. We were very pleased to work with her Foundation and pleased that the Paris Treaty requires countries to protect human rights as they work to meet their COP 21 commitments. The IBA report focuses on justice and human rights issues that arise out of climate change. We know that human trafficking is one of the results of climate change. We provide about 50 different recommendations to governments, international organizations, businesses and others, and we been working over the last two years both inside the IBA and outside it in order to move forward on as many as those recommendations as possible.

All of the reports – on judicial corruption, climate change justice and our soon to be published report on human trafficking -- are available on the IBA website: [www.ibanet.org](http://www.ibanet.org). I hope that you will take the time to review these reports, and if you want me to send any of them to you, please let me know.

As I hope this presentation has demonstrated, law and morality intersect. And it is the IBA's responsibility to protect both.

Thank you very much for your attention.