

## **International Conference**

**21-22 May 2012**

**Sulaymaniya**

### **Human Trafficking**

Honourable Authorities, dear friends it is my obligation to express my deepest thanks to all organizers who have dealt with this meeting and have facilitated this interesting conference.

The topic of the conference is one of human tragedies from which criminality takes profits and advantages : illegal immigration.

### **Immigration**

From the beginning of humanity people emigrated to other countries pushed by economical or political reasons or for natural disasters or persecutions. The purposes of the immigrants were to improve their life or to secure a new style of life to their families.

Nowadays migration is caused by:

#### **Economics and labour market reasons.**

Economic and social circumstances push people to abandon their under-developed realities and move towards developed countries hoping to find a better economic situation. Immigrants normally promptly accept any employment even those refused by native-born workers taking jobs that nobody else wants.

#### **Wars, asylum and persecution.**

To escape civil war or repression in the country of origin people are prompt to migrate to avoid persecution for religious reasons oppression or persecution for political or ethnic reasons. Accordingly emigrants escape wars or oppressions

and illegally enter into another State applying for a refugees visa under the Convention Relating to the Status of Refugees.

### **Overpopulation**

The largest migration usually occurs from overpopulated countries. Overpopulation can cause problems such as pollution and poverty as well difficulties to the public administration to deal with daily needs such as health national services, administration of justice or national education.

In recent years, immigration has grown and has become increasingly worrying especially as states prevented access to all the people who were in financial difficulties or who had no a job. These restrictions have resulted in the birth of smuggling of human trafficking. Consequently, every State put sanctions against those who favoured or organized illegal immigration, but the phenomenon has not stopped.

### **National legislations.**

I skip the examination of national legislation that more or less provide the same prescriptions and similar sanctions. Under Italian legislation the Law 286/98 as amended until 2009 punishes human trafficking with a penalty of 5 to 15 years of imprisonment plus a fine. Under French law i. e. 2003/1119 of 26<sup>th</sup> November 2003 amended on 2006 the sanctions are of 5 years of imprisonment and a 30,000 euro fine. The same legislation exists in Spain, Germany and all the other countries of E.U. In the UK the immigration matter is regulated by the Nationality and Immigration Act of 2006.

### **International Actions**

The phenomenon of illegal immigration has been one of the main concerns of the international and European organizations. In Palermo on the 12<sup>th</sup> of December 2000 in the course of the Convention against transnational organized crime, the Protocol against Smuggling and migrants was signed. More recently the United Nations Office on Drug and Crimes set up the **United Nations Global Program against Trafficking in Human Beings**. This program provides seven key areas: prevention, data monitoring, legislative assistance, strategic planning, analysis of criminal justice systems, protection of victims and international cooperation. In

March 2012 UNODC held an informal briefing on the Programme, which hosted state representatives to generate an open dialogue between Member States and UNODC on the challenges and needs to fight the Transnational Organized Crime.

European organisations also dealt with this matter: the Council of Europe launched the Convention on Action against trafficking in Human Beings. The Convention of Warsaw of the 16<sup>th</sup> May 2005 has been signed, until now, by 43 Member States and enforced in 35 Members States.

The Convention, “ *is a comprehensive treaty focused on the protection of victims of human trafficking. It also aims at preventing trafficking as well as prosecuting the responsible*”. *The Convention provides* the protection and promotion of the rights of victims, guaranteeing gender equality, the protection of the private life of victims, access to emergency medical treatment, counselling and information in a language that the victims can understand, assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders; the access to national education for children, the opportunity to obtain a residence permit, to have access to information on relevant judicial and administrative proceedings in a language they can understand, to legal assistance and to free legal aid for victims as well as to the right of compensation, the right to repatriation in the event the victim desires to. At article 36 the Convention provides to set up a Group of experts on action against trafficking in human beings so-called GRETA, which shall monitor the implementation of this Convention by the Parties and will express opinion on the proposed amendments.

### **The European Union**

First community legislation on this matter took effect in 2002 by Framework Decision 2002/629/JHA. On 10<sup>th</sup> March 2010 a new proposal has been scheduled containing a determinate invitation to the 27 governments to ensure successful prosecution for those responsible, better protection of and assistance to victims, and prevention of human trafficking.

### **The United Kingdom international program.**

The UK although a member of the EU, did not sign the Shengen Convention. Nevertheless the UK is particularly interested to consolidate its relations with

the international organisations in order to fight the phenomenon of human trafficking. For this purpose the UK set up the **Humanity Trafficking Centre** in order to coordinate its actions against those crimes with UNODC, UNGP and other international organisations.

## **Conclusions**

Despite these strong actions and this severe legislation at national and international level, human trafficking continues to represent a threat for modern societies. Prosecutions and trials are often treated with shallowness and disregard and national penal law does not discourage criminality.

Accordingly the administration of justice becomes inefficient and perverted.

This is why I look to an International Justice as a deterrent against very serious crimes. When in 1998 the International Criminal Court was set up, few international jurists wanted to extend the jurisdiction of the Court to any serious criminal conduct. In the preamble of the Statute it is affirmed that ***the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation.***

In the part 2 of the Statute of Rome definitions of jurisdiction, admissibility and applicable law are pointed out. However the ICC is acting at international level with estoppels to interfere with internal affairs. But it is not taken for granted that serious crimes like enslavement, money laundering, mafia association and human trafficking committed by particulars have to be excluded by the jurisdiction of the ICC.

My considerations are provocative remarks but at the same time could be an auspice to assign to an international jurisdiction the very serious crimes, which cause destabilization of the common good at national and international level.

Thank you for your attention

Paolo Iorio

