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## PARTICIPANTS' PAPERS

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### TRAFFICKING IN PERSONS SITUATION IN THE REPUBLIC OF PANAMA

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#### I. TRAFFICKING IN PERSONS IN THE REPUBLIC OF PANAMA

##### A. Definition

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

According to Panamanian law, the definition adopted by the United Nations for trafficking in persons is used for “Trade of Persons”; trafficking in persons in Panama is defined as the facilitation of the illegal entry of a person into a country of which this person is not a citizen or a permanent resident.

In Panama, there are legal differences between these two activities:

Trade of Persons	Illicit Trafficking of Immigrants
The product is a person.	A service is rendered.
The person doesn't give consent.	The person gives consent.
Crossing of borders could occur regularly, irregularly or not at all.	Crossing of borders or transit from one country to another is required.
It could happen inside a country.	Fake or altered identification documents are used.
Requires the retention of identification documents, legal or not.	The trafficker may or may not use legal identification documents.
It is a crime against the person.	It is a crime against the immigration laws of a country and its sovereign.
Traders use physical and psychological violence.	It is a voluntary act on the part of the victim.

Trade of persons is a crime against the person, but illicit trafficking of immigrants is a crime against the nation's immigration laws.

Nevertheless, there are some similarities between these two kinds of crimes:

- Both are crimes against humanity
- There is always an intermediary
- It drains human capital from source countries

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- The persons are seen as merchandise
- It generates revenue for organized crime

For the purposes of this paper, the term “Trafficking in Persons” is used to mean the Trade of Persons in Panama.

## **B. The Actual Situation of Trafficking in Persons**

### **1. The Current Situation of Trafficking in Persons**

Panama is a country with a wealthy, growing economy because of advantages created by the Panama Canal, which generates considerable income for the country. Also, Panama is a tourist destination, and in 2011 a total of 2,000,000 tourists visited the country. This resulted in the construction and operation of hotels in the country. Panama has a Financial Banking Center with more than 80 banks from all over the world operating inside the country. It hosts the Colon Free Zone that has more than 1,000 companies handling the business of the import and export of goods, bringing merchandise from different parts of the world and reselling it without taxes to be exported. In fact, the country is going through a process of enhancing its infrastructure: it is building the first Metro, or mass transit system, in Central America. In addition, it is undertaking an important project of expansion of the capacity of the Panama Canal to accommodate more and bigger ships, and there are other important projects, such as the construction of roads and bridges, generating employment for the people.

All the conditions mentioned above make the country very attractive for international and domestic investment, but they also make it attractive for organized crime to use Panama as a destination and transit point for their illicit activities, such as money laundering, drug trafficking, weapons trafficking and trafficking in persons.

Because of its geographical position in the middle of the Americas, our country is used as a point of transit and destination by persons from different parts of the world that are trying to emigrate to the United States by illegal means. This illicit activity is done by transnational criminal organizations. In this process, the persons that are emigrating are typically victims of abuse, extortion, exploitation, and theft, and they have passed through difficult circumstances.

In recent years, people from different nationalities have been detected entering illegally into the country: countries of origin include Afghanistan, Bangladesh, China, Eritrea, Somalia, Ghana, Nepal, India, Pakistan, Zimbabwe, Nigeria, Ethiopia and Cuba. Panama also is a destination country used by criminal organizations to send women for the purpose of sexual exploitation or for prostitution-related activities. The countries of origin of these women are: Colombia, the Dominican Republic and Nicaragua. Panamanian women are also engaged in these activities.

The country, due to its characteristics as a tourist and business destination, operates a considerable amount of night clubs for the entertainment of men and casinos, and these places are considered as places suspected of having trafficking-in-persons-related activities. In March 2012, in the province of Bocas del Toro on the border with Costa Rica, a case of trafficking in children was detected, and a woman was arrested with a child that was not her son or relative. At the same time in Costa Rica, near the border with Panama, a man and a woman were also arrested with four children that were not their relatives. This group came to Panama from Ecuador and was trying to take the children north.

### **2. Modus Operandi and Means of Trafficking in Persons**

For the illicit trafficking of immigrants there are two methods that traffickers use to achieve their objectives based on the amount of money that the victims are willing to pay or are forced to pay:

- The low-risk, fast, safer and high-cost method, which consists of using fake or forged documents or changed nationalities, which allows easy movement through different countries using air routes.
- The high-risk and low-cost method of the irregular crossing of borders by land, sea or rivers, using boats and on foot.

In the first method mentioned above, there are different modalities used such as:

- Complete or partial falsification of visas
- Obtaining visas by fraudulent means such as:
  - ✓ Falsification of work permits
  - ✓ Falsification of banking records
  - ✓ Falsification of migratory movements
  - ✓ Corruption of government officials
- Change of nationalities, the most commonly seen are:
  - ✓ Colombians as Venezuelans, Mexicans or Spanish
  - ✓ Chinese as Japanese, Taiwanese or South Koreans
  - ✓ Arabs as Colombians, Venezuelans, United States citizens, Canadians, Spanish or Germans.

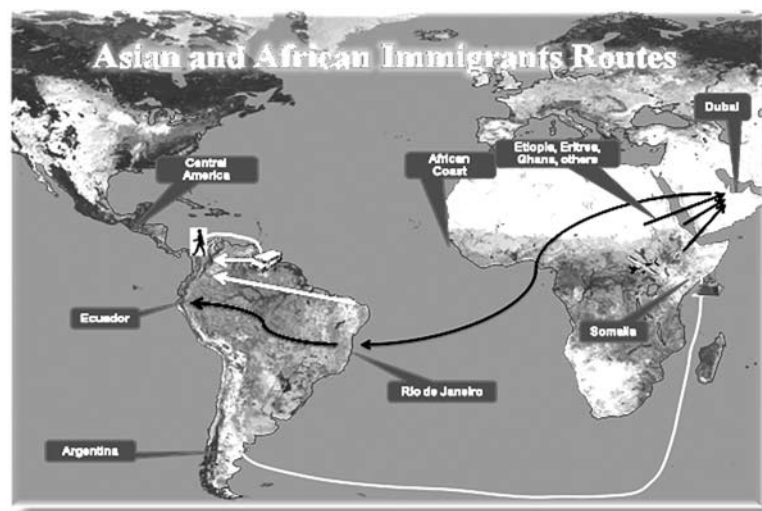
According to the information obtained through police and immigration operations, and also through interviews and some evidence obtained from victims of trafficking, people coming from Africa begin their journey in their countries moving by air to Dubai. From Dubai, they go to Brazil by airplane or by ship. From Brazil, they go to Ecuador by air. From Ecuador, they move to Colombia by land using buses. From Colombia, they go to Panama by land using buses within Colombia and on foot to cross the border because it is a jungle area, and there are no roads available. Also, traffickers travel by sea. From Panama, they move north by land or sea, using buses or boats, passing through Central America (Costa Rica, Nicaragua, Honduras, Guatemala) and Mexico to finish the trip by arriving in the United States — that is their goal. There are reports of people coming from Asia that begin their journey going from their country to Brazil; then they follow the same route as used by the Africans.

For this purpose, those who ask for the service pay significant sums of money for the services of the traffickers, moving them illegally across the different borders. In each country along the route, representatives of criminal organizations receive the persons and provide them with the necessary documents to illegally cross the border.

People found in Panama in this situation by the authorities have been abandoned by their guides, and most of them have been subjected to abuses. The criminals tell the immigrants to throw away their legal documents when they reach Brazil or Ecuador. They tell them to give fake names at each border; they take advantage of an agreement of relaxed entry requirements between Ecuador, Peru and some countries of Africa and Asia for the easy movement of these persons through these countries.

Criminal organizations have guides, lawyers, hotels and all the logistic means in each one of the countries along the route to the US.

**Illustration N° 1: Map of the routes used by Asian and African immigrants to migrate from their countries to America using air, sea and land routes.**



**Illustration N° 2: Map of the routes used by Asian and African immigrants to migrate to North America, using sea and land means of transportation, after reaching the American continent.**



**Illustration N° 3: Map of the routes used by Asian and African immigrants to migrate to North America, using sea and land means of transportation (mostly on foot and buses) to cross the border of Colombia into Panama.**



Another modus operandi of trafficking in persons is sending women from Colombia, Nicaragua or the Dominican Republic to Panama with the promise of good jobs. They enter the country as tourists, but as soon as they arrive in the country, they are taken to prostitution houses that operate legally in the country. The owner or manager, takes their identification documents and forces them to work, demanding them to pay for all the expenses incurred to bring them to Panama — practically exploiting them for a long period of time.

### 3. Forms of Exploitation

The most common form of exploitation that is registered in Panama is sexual exploitation. Other forms may exist, but there is little information about them.

### 4. Analysis of the Causes of Trafficking in Persons

The persons that are objects of trafficking in persons leave their countries because of war, political situations, economic crises and other social problems. The women that are victims of sexual exploitation migrate from their countries because of poverty, lack of education and social problems. They are looking for a better way of life.



### C. Measures for Prosecution

#### 1. Criminalization of Trafficking in Persons and Related Acts.

The Republic of Panama, by legislation, has characterized the crime of Trafficking in Persons to be understood as the illicit trafficking of immigrants. The Penal Code of the Republic of Panama, Title XV Crimes against Humanity Chapter 1, Crimes against International Law of Human Rights, Article 442, establishes as follows:

**Article 442.** Anyone who is a leader or is part of an international organization dedicated to trafficking in persons will be punished with imprisonment of 10 to 15 years. The same sanction will be imposed on anyone who participates in any way in the trafficking in persons, with the consent of these persons, avoiding or evading illegally, in any way, the immigration controls established in the continental territory of the Republic.

Recently the Government of Panama approved Law N° 79 of 9 November 2011, about trafficking in persons and related activities. This law took effect on 1 January 2012. The law establishes the definition of trafficking in persons according to the United Nations Protocol and modifies the Penal Code in its Title XV "Crimes against Humanity," adding one chapter with the title "Trafficking in Persons Crimes," and it establishes the sanctions against this type of crime as follows:

**Article 456.** Anyone who promotes, leads, organizes, finances, invites or manages by any means of communication, mass or individual, or in any other way facilitates the entry into or the exit from the country or the movement within the country of a person of any sex, to realize one or several acts of prostitution or submit a person to exploitation, sexual or labor servitude, slavery or activities similar to slavery, forced labor, servile marriage, mendacity, illicit extraction of organs or irregular adoption will be sanctioned with imprisonment of 20 to 30 years.

This chapter, in its subsequent articles, establishes sanctions for all other persons who participate in different ways by helping or allowing this type of crime.

Also, Law 16, enacted in March 2004, dictates dispositions for the prevention and classification of crimes against sexual freedom and integrity. The most important sanctions it establishes are for crimes related to sexual exploitation:

**Article 231.** Anyone who promotes or facilitates, in any way, the entry to or exit from the country of a person of any sex to practice paid sexual activity or to maintain the person in sexual servitude, will be sanctioned with imprisonment of 5 to 8 years and 100 to 250 days of fines.

**Article 231-A.** Anyone who promotes, favors, facilitates or executes the recruitment, transport, movement or reception of minors, in or outside of the national territory, for the purpose of sexual exploitation or to maintain them in sexual servitude, will be sanctioned with imprisonment of 8 to 10 years and 250 to 350 days of fines.

**Article 231-B.** Anyone who acting or pretending to act as employer, manager, supervisor, contractor or agent of employment, with knowledge, gets, destroys, hides, withdraws, seizes or possesses any passport, immigration document or other public document of identification, real or fake, that belongs to another person, will be sanctioned with imprisonment of 3 to 5 years and 75 to 150 days of fines.

#### 2. Obstacles to the Investigation of Trafficking in Persons

Trafficking in persons is not easy to investigate because it is a crime that involves the participation of criminals in different countries. It does not begin in Panama, so usually it begins in another country. Investigating these crimes requires international cooperation to gather information, but most of the countries where the victims come from are located very far away from Panama, and there is poor cooperation or a lack of information. Another obstacle is the victims' lack of cooperation: either they do not reveal too much information, or they do not have much information to reveal. The victims are only focused on continuing their journeys north or going back to their home countries. They are not willing to file complaints. In some cases there is corruption involved, and trafficking becomes very difficult to prove. There is also a problem of language barriers in some cases, which becomes an obstacle to the investigation,

especially in cases involving African citizens.

### 3. Detecting Trafficking in Persons

The detection of trafficking in persons is done through the activity of the National Border Service, which patrols the border with Colombia — a jungle area where there are known trails used by traffickers to move the victims. Sometimes it becomes necessary to rescue these persons who get lost in the jungle, abandoned by their guides. It has also been reported that indigenous people are guiding the persons through the jungle, and, perhaps unknowingly, are getting involved in the activity of trafficking in persons. It is also detected by information given by the community, in rural or coastal towns, when the victims are seen in groups trying to get back to a major city.

Another form of detection is those cases in which the victims escape from the trafficker and seek help from the authorities. The National Service of Immigration conducts operations at legal prostitution houses, checking the status of the workers and interviewing them, and in this process they can detect victims of trafficking in persons.

It is also detected through cooperation with international agencies like the Immigration and Customs Enforcement Agency of the United States, which exchanges information with Panamanian authorities about possible victims of trafficking in persons using Panama as a transit point.

**Illustration N° 4: Last 4 years of statistics of persons detained by country of origin.**

<b>Immigrants from Africa and Asia</b>					
<b>Countries</b>	<b>Total</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012*</b>
Afghanistan	24	4	17	0	3
Bangladesh	154	32	53	45	24
China	498	215	268	9	6
Eritrea	87	5	60	15	7
Somalia	92	33	4	20	35
Syria	1	0	0	0	1
South Africa	2	0	0	0	2
Ghana	4	0	0	0	4
Nepal	60	3	29	9	19
India	36	3	12	6	15
Pakistán	14	0	9	3	2
Zimbabwe	3	1	0	1	1
Burkina Faso	1	0	0	1	0
Nígeria	9	0	2	6	1
Ethiopia	12	1	5	5	1
Others	100	20	44	27	9
<b>Totals</b>	<b>1,097</b>	<b>317</b>	<b>503</b>	<b>147</b>	<b>130</b>

Source: National Immigration Service.

\* Updated through 30 May 2012.

As can be seen in Illustration N° 4, there is a growing trend in the number of persons coming from Bangladesh, Somalia, Nepal, India and Ghana, and in general terms, this is seen by the increase in the number of illegal persons detained from 2011 (147 persons over 12 months) to 2012 (130 persons in only 5 months).

**Illustration N° 5: Number of cases related to Sexual Exploitation Crimes registered in the Republic of Panama from the year 2008 to May 2012.**

Sexual Exploitation Crimes						
Crime	Total	2008	2009	2010	2011	2012*
Procurement	28	5	7	10	3	3
Child Pornography	91	15	21	16	24	15
Paid Sexual Relations	81	21	25	22	8	5
Sexual Exploitation	44	13	8	14	9	0
Corruption of minors	23	5	2	3	13	0
Sexual Tourism	2	1	1	0	0	0
<b>Total</b>	<b>269</b>	<b>60</b>	<b>64</b>	<b>65</b>	<b>57</b>	<b>23</b>

Source: Sexual Crimes Division, Judicial Investigations Direction, Panama National Police.

\*Updated through 30 May 2012.

#### 4. Victim-Related Issues

The identification of victims in the first stage is done, in the majority of cases, by the Immigration Authority, because most of the time, they are the ones having the first contact with the victims. In the border areas, contact is often made by the National Border Service because they are the ones that have more presence there. The National Police identifies the victims in cases in which the victims file complaints.

Authorities that identify the victims conduct the first interviews and have the duty of giving assistance and protection during the investigation. When the case is handled by the prosecutor's office, victims are protected by law.

The new law N° 79 creates a Victim's Identification and Attention Unit in charge of the identification and attention of possible victims of trafficking in persons. This Unit is in the process of creation because the law is relatively new, and it is in the implementation process. The law establishes rights for the victims including the protection of the identity of the victim.

#### 5. Witness Protection and Measures to Encourage Cooperation

Witness protection is ensured by the prosecutor by not revealing the identity of the victim during the process. Prosecutors assign a code to the victim, and only the prosecutor and the judge have knowledge of the identity of the witness.

#### 6. Special Investigative Techniques

Special investigative techniques, such as electronic surveillance and undercover operations, are available and are used during the investigations.

#### 7. International Cooperation

The Republic of Panama has signed treaties with a large number of countries for the extradition of criminals living in Panama and who have committed crimes in other countries. It also has signed treaties of Mutual Legal Assistance that are used by the prosecutor's office to obtain testimonies and evidence from those countries. Panama has a National Central Bureau of Interpol; through this channel the police have access to information and cooperation with other law enforcement agencies from other countries.

Panama also has participated in international efforts to combat trafficking in persons promoted by INTERPOL through the participation in the planning and execution of regional operations against trafficking, involving prosecutors, police and immigration authorities.

#### 8. Confiscation of Proceeds of Crime

Law N° 79 contemplates the confiscation of proceeds of crime, and it mandates that all the proceeds when sold must be given to the National Commission against Trafficking in Persons, to be used for the assistance of victims.

### **D. Measures for Protection**

The new Law N° 70 establishes important measures for the protection of victims and witnesses, as follows:

**Article 40.** The National Commission against Trafficking in Persons shall maintain strict confidentiality about information of investigations related to trafficking in persons and will guard and secure the respect of the privacy of the victims. This obligation is also for judicial and administrative offices that could have contact with the information.

**Article 41.** The protection of life, physical integrity, freedom and security of the victims of trafficking in persons, witnesses of the crime and dependents or persons related to the victim, without reference to the sex, race, religion, sexual or political orientation, nationality, economical position, social or immigration condition of the protected individual, will be considered fundamental.

This protection will be given before, during and after the process without any obligation of the victim to collaborate with the investigation as a requirement to receive it. When the victim is an underage person, it will be important to emphasize the superior interest of this child or young adult, to respect his or her rights and to provide adequate protection. In cases of trafficking in persons with the intent of sexual exploitation, the judge can order a trial closed to the public.

#### 1. Immigration Status

Law N° 79 establishes that the National Immigration Service will give the victim a temporary permanency permit for a period not less than 90 days, for the victim's physical and emotional recuperation, and also to determine the extent of the victim's participation in the criminal justice process.

In fact, the government through the National Immigration Service carries out a "regularization" process open for all the immigrants that are staying illegally in the country for more than one year, so they can apply for, and will be granted, a residency permit for two years.

#### 2. Assistance for Living (Residence, Translation, Medical Care, Psychological Care, Etc.)

When a victim is detected, they receive medical assistance and translation services, if available. The new law establishes rights for the victims, for example:

- (i) To receive appropriate housing, safe and accessible, as well as coverage of their basic needs of food, clothing and hygiene.
- (ii) To receive medical and psychological assistance, including therapy and medicines.

It is important to mention that the law is in the process of implementation.

#### 3. Assistance to Return Home

The National Immigration Service pays for the air tickets of illicit immigrants and victims of trafficking in persons to send them back to their respective countries, and this is also contemplated in the new law.



**Illustration N° 6: Chart of the amount of money paid by the government of the Republic of Panama for food and air tickets to repatriate victims of trafficking in persons and illegal immigrants.**

Costs paid by the Government of Panama					
Type	Total	2009	2010	2011	2012*
Food	<b>119,729.62</b>	31,077.85	47,710.33	26,292.13	14,649.31
Deportation	<b>314,039.35</b>	56,384.05	73,318.26	173,740.04	10,597.00
<b>Total</b>	<b>433,768.97</b>	<b>87,461.90</b>	<b>121,028.59</b>	<b>200,032.17</b>	<b>25,246.31</b>

4. Assistance for Restitution and Compensation

Actually it has not been a practice to compensate the victims, but the new law establishes in Article 38 that, in cases in which there is a sentence, the victims will be indemnified for all the damages caused.

**E. Measures for Prevention**

1. Border Control

Border control is done by the National Border Service, the National Immigration Service and the Panama National Police. They maintain constant surveillance of the borders by applying the formal controls and also by patrolling rural areas and known places used by traffickers to introduce persons illegally. It is not an easy task because our country has coasts on the Pacific and Atlantic oceans, and the border with Colombia is a jungle.

2. Measures against Misuse of Travel and Identity Documents

The Panama National Police, the National Border Service and the National Immigration Service members receive training to detect fake travel and identity documents, and the law establishes sanctions for the misuse of these types of documents.

**II. CONCLUSION**

Trafficking in persons in Panama is not a new issue; it is a crime that has been in the environment for many years, but it has been growing along with the development of the country. Unfortunately, Panama offers conditions that are attractive to organized crime in order to use our country for human trafficking purposes (both transit and destination) and in some cases as a source for trafficking in persons.

This is not a problem limited to the Republic of Panama. Trafficking in persons is a global problem that involves many countries, and the criminal organizations are dedicated to this work internationally. Therefore, it is important to encourage cooperation at national and international levels — at the national level, between governmental and nongovernmental institutions involved in the fight against crime and at the international level, through the exchange of information and implementation of global actions to prevent and fight against this type of crime.

The Republic of Panama has placed importance on this crime and its occurrence in the country and is taking important steps to address the problem from a national perspective, involving not only the governmental institutions but also civil society in the solutions.