



The Miami Declaration of Principles on Human Trafficking



Graduate Program in Intercultural Human Rights
St. Thomas University School of Law

The Miami Declaration of Principles on Human Trafficking

February 10, 2005

▪ Preamble ▪

Today, slavery is illegal in nearly every country on the face of this planet. Yet, 600,000 to 2,000,000 people are trafficked across international borders annually and millions more are trafficked within borders. An estimated 27 million people toil under conditions of personal servitude around the world. Human trafficking has become the third-largest source of profits for organized crime, generating billions of dollars each year.

In order to combat this egregious and growing threat to human dignity, the government leaders, scholars, expert practitioners and students present at the symposium on human trafficking held on the campus of St. Thomas University Law School on February 10, 2005, hosted by the Law School's Graduate Program in Intercultural Human Rights and its Intercultural Human Rights Law Review, shared their expertise, engaged in thorough, problem- and policy-oriented discussion and formulated the following set of *consensus principles* to recommend to decision-makers and practitioners around the world.

The Miami Declaration on Human Trafficking

I. International Legal Policies

1. Trafficking in persons is a human rights violation that constitutes a contemporary form of slavery. It is defined as:

the action of recruitment, transportation, transfer, harboring 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 including, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.¹

¹ This definition largely draws on Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001), *entered into force* Sept. 9, 2003. It is to be noted that consent of the victim is irrelevant where the illicit means mentioned above are established. Criminal law defenses, however, are preserved.

2. Trafficking in persons also typically violates other basic human rights, especially the right of the victim to be free from slavery or servitude, the right of the victim to life, liberty and security of person, the right of the victim to be free from torture or cruel, inhuman or degrading treatment or punishment, the right of the victim to health, the right of the victim to freedom of movement and residence, and the right of the victim to free choice of employment. It also includes the commission of serious crimes against persons, in many cases rape, assault, and torture, as well as crimes against states, often including money laundering, tax evasion, and violations of immigration rules.

3. Trafficking in persons is to be considered a crime against humanity, just as genocide, enslavement and torture are. As such, its commission triggers universal jurisdiction. It should also be recognized as a violation of *jus cogens*, a breach of the peremptory norms of international law.

4. Victims of trafficking in persons are to be treated with dignity, fairness and respect for their human rights. Among these rights are: the right to safety; the right to privacy; the right to information; the right to legal representation; the right to be heard in court; the right to compensation for damages; the right to medical assistance; the right to social assistance; the right to seek residence; and the right to return to their country of origin.

5. States² should recognize that the roots of human trafficking include vulnerabilities based upon age, poverty, lack of education, unemployment or underemployment, gender discrimination, as well as the non-enforcement of laws on the registration of births, the age of marriage and the age of majority.

6. States should ratify and implement relevant and appropriate international legal instruments on human rights and trafficking in persons.³

7. States should adopt and implement the laws and administrative structures needed to support international co-operation and assistance in preventing, investigating and prosecuting cases of human trafficking.

8. States should establish direct channels of communication between their border control agencies and law enforcement agencies. They should initiate or expand efforts to gather and analyze data on trafficking in persons, including on the means and

² The term “State” describes the recognized principal actors of international law which unite a people in a defined territory under its own sovereign government. It includes States organized in a federal system. Governments are the agents of States. International legal obligations are binding upon all levels of government. In a federal State, these entities include federal, state, and local authorities.

³ Pertinent instruments to be considered include, but are not limited to, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, *supra* note 1; the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol. III (2000), *entered into force* Jan. 18, 2002; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, G.A. Res. 317 (IV) of 2 December 1949, *entered into force* July 25, 1951; and the Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981.

methods used, on the situation, magnitude, nature, and economics of trafficking in persons, particularly of women and children. States should share such information, as appropriate, with law enforcement agencies and other agencies of countries of origin, transit and destination, as well as with international law enforcement agencies such as INTERPOL.

9. States should provide, strengthen, and cooperate internationally in, training for law enforcement personnel, customs and immigration officials, prosecutors and judges, and other relevant officials, on the issue of trafficking in persons. The training should focus on the methods used in preventing such trafficking, prosecuting the traffickers, and protecting the rights of victims of trafficking, including protecting the victims from the traffickers. This training should also take into account the need to consider human rights, be sensitive to child and gender issues as well as linguistic, cultural, ethnic, and religious aspects of the problem, and it should encourage co-operation with non-governmental organizations and other elements of civil society.

II. Legal Sanctions and Enforcement Strategies

10. Trafficking in persons is an egregious criminal activity, often perpetrated by individuals or by organized transnational criminal groups. Trafficking in persons is often linked with the laundering of illicit proceeds, thus making prosecution and confiscation particularly difficult. A comprehensive approach to trafficking should include prosecution of the traffickers, prevention of the act of trafficking, and protection of the victims of trafficking. In addition, trafficking is often a transnational crime that warrants the development and implementation of transnational policies, in particular, the imposition of extraterritorial sanctions, extradition, and exchange of information.

11. States should recognize trafficking in persons as a specific and serious crime in their domestic laws. In particular, States have the responsibility to enact domestic anti-trafficking laws that can be applied extraterritorially. Penalties for trafficking must reflect the severity of the offense.

12. States should enact legislation to recognize as crimes all forms of sexual exploitation, including trafficking for the purpose of prostitution, trafficking for the purpose of pornography, trafficking for the purpose of providing mail-order brides and household help, as well as sex tourism.

13. States are urged to curtail demand for commercial sexual services, and punish all actors involved in the trafficking scheme, including the principals of the scheme, other members of the criminal association, as well as facilitators.

14. Corporations should be held criminally liable for the commission of the crime of trafficking in persons. Also, corporate officials in a position of relevant authority who know or should have known that their corporation derives a financial benefit from the labor of a trafficked person should be held criminally liable for their complicity in the crime of trafficking in persons.

15. States should fight corruption and punish public officials who facilitate or participate in the trafficking enterprise.
16. States are urged to fully prosecute cases of trafficking and to commit adequate funding to this task.
17. As a part of their responsibility to prosecute cases of trafficking, States should provide special training to law enforcement officials, border officials and judges on methods of detecting, investigating and prosecuting cases of trafficking in persons and related crimes. Adequate training and funding for state and local law enforcement is imperative.
18. States should recognize and implement in their domestic laws trafficking in persons as an extraditable offense, and they should include this offense in their extradition treaties and practices.

III. Immigration Policies

19. States should recognize that trafficking is a crime that is not dependent on the person's immigration status, and benefits should be granted to victims of trafficking irrespective of their immigration status.
20. States should have immigration policies reasonably calculated to meet domestic labor needs. Immigrants are often vulnerable to trafficking because they do not have legal immigration status but have migrated in response to the destination country's unmet demand for labor. Moreover, such migration creates instability for the migrant's remaining family in the country of origin; thereby creating a secondary vulnerable population.
21. States should allow victims of trafficking to apply for a protective status allowing them to remain in the states' territory, and if found to be valid, states should grant the relief. Victims should have recourse to all other opportunities to apply for immigration status. States should recognize the relation between underlying crimes and the larger definition of trafficking. Victims of trafficking should not be deported without having the opportunity to apply for such protective status.
22. Immigration-related benefits should not be made unreasonably contingent upon the victim's cooperation with the prosecution of their traffickers.
23. No State (including countries of destination, transit, or origin of human trafficking) should impose immigration penalties on victims of trafficking who repatriate. The victim's repatriation should thus not adversely affect his or her chances of future immigration to the transit or destination State.
24. It is the responsibility of the government of the victim's citizenship to issue or provide valid identity documents promptly to trafficking victims.

IV. Protection and Reintegration of Victims of Trafficking

25. States should sponsor training and support efforts to train NGOs and legal counsel in all the dimensions of human trafficking. This includes training in the identification of victims of trafficking and their social, health, and legal needs.
26. States should sponsor training and support efforts to train law enforcement officers, judicial and other administrative officials as well as members of governmental agencies who may have contact with trafficked persons in all the dimensions of human trafficking. This includes training in the identification of victims of trafficking and their social, health, and legal needs.
27. Governments have a responsibility to find and identify victims of trafficking and assist them to come forward without fear of prosecution or retaliation. To this end, states should develop identification measures, which distinguish trafficking in human beings for various forms of exploitation from illegal migration and smuggling. Multiple means should be used to help victims of trafficking come forward, such as hotlines, drop-in centers and direct victim outreach.
28. The trafficked person must be recognized as the victim of the crime of trafficking. States must not criminalize the status of the trafficked person and should not penalize the victim for illegal acts, such as illegal immigration or prostitution, incident or related to the trafficking act.
29. States should provide victims of trafficking with all protective and re-integrative services, the minimum of which includes safety planning, health services, legal services, culturally appropriate mental health services, as well as safe and secure housing.
30. Victims should not be forced or coerced into cooperating with the prosecution of perpetrators, nor should they be penalized for failing to testify.
31. Safety and privacy of the victims should be of the highest priority. Governments have the responsibility to ensure that witness protection programs are available to victims of trafficking and their family members before, during and after investigation and prosecution. Protection measures, especially police protection measures, should be available to all victims in need, not only to those acting as witnesses.
32. Benefits granted to a victim of trafficking should also be extended to members of the victim's family as needed.
33. Preventive measures should include, as a minimum: 1) programs promoting the empowerment of women and their full participation to the economic and social life of their countries of origin; 2) policies promoting education, social protection, and economic development; 3) measures to reduce the demand for prostitution, other commercial sexual services, cheap labor, and any other activity that could foster trafficking in persons; 4) measures to survey migration patterns and ensure legal and safe labor migration.

34. Governments have the responsibility to cooperate with non-governmental organizations (NGOs), including faith-based organizations, to allow them the freedom to work, and consult with them in taking the necessary measures to combat trafficking in persons and to assist the victims. Moreover, a system of identification, assistance, protection and social inclusion of trafficked persons should be based on regular cooperation between public institutions and social actors (especially law enforcement, prosecution, migration authorities, local authorities, NGOs and other relevant actors and service providers) at the national and local level.

35. Countries of origin and destination have the responsibility to cooperate, exchange information, and provide for mutual assistance in order to: 1) develop joint actions against trafficking and prevent overlaps; 2) promote law enforcement and judicial collaboration; and 3) facilitate contacts between embassies and consular authorities.

36. States should facilitate the repatriation of victims of trafficking, if they wish to return to their home country. Governments have also the responsibility to ensure the re-integration of victims of trafficking in their communities, by issuing identity documents and providing them with employment or education opportunities.

37. Research, information, networking, education, and mass media campaigns are crucial in the fight against trafficking in persons. Research is important to assess the scope of the problem, identify the victims, study methods to reduce the demand of all those activities fostering trafficking in persons, determine the special needs of child victims, suggest further tools to combat trafficking in persons, and highlight the link between trafficking and HIV/AIDS. Academic institutions should play a vital role in this field.

38. Awareness campaigns spreading information about trafficking issues should target the general public, the business community, and policy makers in order to create an environment that does not accept any form of trafficking. They should also address specific groups, such as potential victims, customers, business owners, border officials, law enforcement personnel, and diplomatic authorities. Such campaigns should warn about the risks of trafficking as well as the harm of prostitution, and inform about the benefits available to victims of trafficking. The media can play a crucial role by acting as a multiplier and ensure the outreach of the campaign by launching a systematic effort in several countries at the same time, thereby creating synergies and effective peer pressure.

39. States should consider the creation of an international list of missing persons, which would be particularly helpful in the identification of victims and potential victims, such as unaccompanied children.

40. States, in cooperation with IGOs and NGOs should identify and review best practices in the field of trafficking in persons, including policies, programs, and existing laws, in order to study their impact in the reduction of trafficking.

41. States should provide IGOs and NGOs that are involved in the fight against trafficking in persons with the appropriate funds and resources to effectively perform their mandate.

42. States should periodically self-assess their action against trafficking in persons, to evaluate the effectiveness of their laws and policies, and take measures to correct them, where appropriate.



Dr. Roza Pati, Founder and Director, The John J. Brunetti Human Trafficking Academy, Ambassador Luis CdeBaca, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Congresswoman Ileana Ros-Lehtinen, and St. Thomas University President, Rev. Msgr. Franklyn Casale
Miami, September 2010



*Second Lady of the United States, Dr. Jill Biden,
and Dr. Roza Pati*
Bucharest, Romania, May 21, 2014

▪ List of Experts ▪

Intergovernmental Organizations

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Berry A. Kralj, Executive Assistant to Special Representative on Trafficking in Human Beings, Organization for Security and Cooperation in Europe (OSCE), Vienna, Austria

Governmental Agencies

Chad M. Bettes, U.S. State Department Office to Monitor and Combat Trafficking in Persons, Washington, D.C.

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Marvelle McIntyre-Hall, Assistant United States Attorney, Coordinator of the Human Trafficking Task Force for the Southern District of Florida, Miami, Florida

Mario Tariche, Supervising Special Agent, Federal Bureau of Investigation (FBI), Miami, Florida

John P. Woods, Assistant Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Miami, Florida

Academic Experts

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Professor Terry Coonan, Executive Director, Florida State University Center for the Advancement of Human Rights, Tallahassee, Florida

Nancy L. Fowler, President, Human Rights Organization, Florida Atlantic University

Professor Mohamed Y. Mattar, Executive Director, The Protection Project, Johns Hopkins University School of Advanced International Studies, Washington, D.C.

Professor Dr. Roza Pati, Founder and Director, The John J. Brunetti Human Trafficking Academy, Professor of Law and Executive Director, Graduate Program in Intercultural Human Rights, St. Thomas University School of Law, Miami, Florida

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Non-Governmental Organizations

Dr. Kevin Bales, President, Free the Slaves; University of Surrey, Roehampton, London, England

Frank Cannon, Principal, Capital City Partners, Washington, D.C.

Dr. Julianne Duncan, Associate Director for Children's Services, United States Conference of Catholic Bishops Migration and Refugee Services, Office of Refugee Programs, Washington, D.C.

Maria José Fletcher, Director, LUCHA – A Women's Legal Project, Florida Immigrant Advocacy Center, Miami, Florida

Dr. Elizabeth Hopper, Associate Director and Program Coordinator, Project REACH, The Trauma Center, Brookline, Massachusetts

Dr. Dorchen A. Leidholdt, Founder and Co-Executive Director, Coalition Against Trafficking in Women (CATW), New York, New York

Heather Moore, Director, Coalition to Abolish Slavery and Trafficking (CAST), Los Angeles, California

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► Master of Laws (LL.M.) Program in Intercultural Human Rights

▪ Mission Statement ▪

The LL.M. Program in Intercultural Human Rights aims at providing students with top-level knowledge and expertise in the conception, prescription and application of human rights law from an intercultural perspective, and preparing them for their effective participation in the quest for a world order of peace, justice and respect for human dignity.

▪ The Program ▪

This innovative program is designed to offer in-depth instruction and practical application on the critical issue of our time: the protection of human dignity across political, social, economic and cultural lines. Lawyers, government officials, teachers, human rights activists, businessmen and women with a commitment to human rights and social justice are invited to St. Thomas University School of Law in Miami to pursue an advanced degree in one of the most dynamic fields of international law: intercultural human rights.

The excellence of instruction emanating from world-renowned faculty from the United Nations and eminent centers of scholarship create a highly stimulating learning environment and promise the most challenging academic experience of your career. Students develop the ability to evaluate the major theories, practices and fundamental concepts in international human rights law and policy, as well as to conduct effective research and advocacy in the field of human rights in a practical and interactive way.

The LL.M. degree is earned in one year upon completion of 24 academic credits. The program offers more than 20 mostly one-week compact courses in intercultural human rights. Human rights law and complaint procedures, international law, humanitarian law, human rights and terrorism will all be addressed as well as issues of refugees, women and children, indigenous peoples, religion, criminal law and international trade. Our courses exploring theoretical issues and practical applications guarantee that the program continues to excel since its inception in 2001.

▪ Eligibility ▪

Enrollment for the LL.M. degree is open to holders of a J.D. degree or similar foreign qualifications in the field of law.

On a highly selective basis, admission may also be granted to holders of a bachelor's degree or its foreign equivalent, who have shown an outstanding commitment to the cause of human rights and human dignity. Non-lawyers participating in this program are advised that the program does not prepare or qualify its students to engage in the practice of law and that the program is not intended to qualify students to take a bar examination.

Students may apply for full time or part-time status.

► Doctor of the Science of Law (J.S.D.) in Intercultural Human Rights

▪ Mission Statement ▪

The J.S.D. Program in Intercultural Human Rights aims at providing a premier opportunity for budding human rights scholars to make a lasting contribution to the dynamic and action-oriented field of human rights through researching, analyzing and offering solutions to pertinent cutting-edge issues both globally and domestically.

▪ The Program ▪

As any thesis-based doctoral degree, the J.S.D. in Intercultural Human Rights is the capstone academic achievement indicating ultimate academic specialization and original contribution in the chosen field. Its emphasis is on the imparting, analysis, elaboration and dissemination of knowledge about human rights in the world social process, and the development of recommended solutions to societal problems through interdisciplinary, problem- and policy-oriented research. Intercultural dialogue facilitates this research; it is enhanced by the diversity conspicuous not only in the student body, but also the program faculty as established in the residential LL.M. Intercultural Human Rights Program.

The J.S.D. degree in Intercultural Human Rights is conferred upon successful completion of a dissertation, the passing of an oral defense examination, i.e. the *rigorosum*, and proof of publication of the dissertation.

▪ Eligibility ▪

Students must have graduated *with honors* from St. Thomas University's LL.M. Program in Intercultural Human Rights. In extremely rare cases, outstanding scholars from other institutions who hold an LL.M. degree in the field may be admitted as well, with the condition that they satisfy one year residency during which they take courses in human rights law.

Candidates for the J.S.D. program need to prove to the School of Law's J.S.D. Admissions Committee that they are outstanding scholars at or near the top of their class who are capable of producing a publishable thesis that adds to the knowledge in the field, and who are capable of doing so within the time frame of the J.S.D. program.

More information at: www.stu.edu/humanrights.

► Intercultural Human Rights Law Review

The Intercultural Human Rights Law Review is an annual journal of intercultural human rights scholarship. Exploring new directions and perspectives in the struggle for human rights, justice, and equality, it publishes cutting-edge articles and essays in the field authored by academics, practitioners, and students. It strives to be a useful resource for scholars, policymakers, and practitioners from around the globe. The 2006 inaugural issue of this law review is dedicated to issues surrounding human trafficking and the elaboration of *The Miami Declaration of Principles on Human Trafficking*. From 2012 to 2017, the Intercultural Human Rights Law Review has ranked in the top human rights journals worldwide (Washington and Lee Law Review Rankings).

► Studies in Intercultural Human Rights

The Graduate Program in Intercultural Human Rights fosters and promotes a legacy of academic scholarship. The program in partnership with Martinus Nijhoff Publishers has developed the series *Studies in Intercultural Human Rights*, which showcases unique perspectives on specific human rights topics. Below are the publications in the last decade (2009-2019).

- Volume 1: Roza Pati, *Due Process and International Terrorism: An International Legal Analysis* (2009)
- Volume 2: Mark Kielsgard, *Reluctant Engagement: U.S. Policy and the International Criminal Court* (2010)
- Volume 3: Qerim Qerimi, *Development in International Law: A Policy-Oriented Inquiry* (2012)
- Volume 4: *Cultural Heritage, Cultural Rights, Cultural Diversity: New Developments in International Law*, Editors: Silvia Borelli & Federico Lenzerini (2012)
- Volume 5: Alexandra Rengel, *Privacy in the 21st Century* (2013)
- Volume 6: Denise Wallace, *Human Rights and Business: A Policy-Oriented Perspective* (2014)
- Volume 7: *Cultural Rights as Collective Rights: An International Law Perspective*
Editor: Andrzej Jakubowski (2016)
- Volume 8: Yoon Jin Shin, *A Transnational Human Rights Approach to Human Trafficking: Empowering the Powerless* (2017)
- Volume 9: *Cultural Heritage in the European Union: A Critical Inquiry into Law and Policy*, Editors: Andrzej Jakubowski, Kristin Hausler & Francesca Fiorentini (2019)

► The John J. Brunetti Human Trafficking Academy

▪ Mission Statement ▪

The John J. Brunetti Human Trafficking Academy upholds and advances the inherent *value*, *worth* and *dignity* of each *human being*. To this end, it develops education programs, conducts research, and instructs law and policy to fight human trafficking throughout the world and to empower survivor leadership in our global community.

▪ The Academy ▪

The Academy offers specialized training and technical assistance to countries, government entities, academic institutions, the private sector, faith-based organizations, and the community at large on issues related to the crime of trafficking in persons. To date, the Academy has impacted over 10,000 leaders and community members domestically and abroad. As part of St. Thomas University School of Law's LL.M./J.S.D. Program in Intercultural Human Rights, the Academy addresses human trafficking from the perspective of human rights law, and the integral human development of every person and the whole person.

St. Thomas University School of Law through its LL.M./J.S.D. Program in Intercultural Human Rights is the first academic institution in South Florida to shed light on the magnitude and scope of human trafficking. It is also one of the pioneer institutions in the field of human trafficking nationwide, and the first law school to offer a doctrinal course on human trafficking law in its J.D. curriculum.

Since 2004, the Program has hosted numerous symposia, seminars and roundtables locally and internationally. In 2010, international scholar and expert, Prof. Dr. Roza Pati, formally founded the Academy with the support of a grant of the U.S. Department of Justice, Bureau of Justice Assistance. In 2017, the late John J. Brunetti, a successful businessman and philanthropist, donated a generous gift to the Academy enabling its continued work as a premier institution for training and education on human trafficking, and the Academy now proudly bears his name. Today, the Academy continues its legacy as a cutting-edge leader in the field and remains a champion in the fight against modern day slavery.

More information at: www.humantraffickingacademy.org.



*The Honorable Katherine Fernandez Rundle, Miami-Dade County State Attorney, and Dr. Roza Pati
Miami, July 16, 2019*



*Mr. Callahan Walsh, Child Advocate at National Center for Missing & Exploited Children and a producer of America's Most Wanted, and Dr. Roza Pati
Miami, July 15, 2019*



*The Honorable Michael Davis, 17th Judicial Circuit of Florida;
The Honorable Stacy Ross, 17th Judicial Circuit of Florida (far right); and
The John J. Brunetti Human Trafficking Academy Team (Karla Garcia,
Tessa Juste, Marina Rakopyan, and Liza E. Smoker, Esq.)
Broward County Courthouse, January 4, 2019*



*Mr. Carl Berry, Head of the Anti-Trafficking in Persons Unit of the Jamaica
Constabulary Force and a member of the INTERPOL Human Trafficking Expert
Group, with Dr. Roza Pati and Liza E. Smoker, Esq., Managing Director,
The John J. Brunetti Human Trafficking Academy
Miami, July 16, 2019*

“We declare on each and every one of our creeds that modern day slavery, in terms of human trafficking, forced labor and prostitution, and organ trafficking, is a crime against humanity.”

- His Holiness Pope Francis

Drafted by

**Intergovernmental, Governmental,
Non-Governmental and Academic Experts
at Interdisciplinary Symposium in Miami, Florida**

Februar y 10, 2005

