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# **1998 Regional Conference on Trafficking in Women**

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**Jointly Organized by ESCAP, ILO, IOM, NCWA in  
Thailand and Asian Women's Fund**

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## BANGKOK ACCORD AND PLAN OF ACTION TO COMBAT TRAFFICKING IN WOMEN

### Preamble

We, the participants, at the ESCAP/ILO/IOM/NCWA/AWF Regional Conference on Trafficking in Women, held at Bangkok from 3 to 4 November 1998;

Reaffirming the fundamental principles enshrined in the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women;

Reaffirming also the pertinent provisions on trafficking in women and girls as contained in the Beijing Platform for Action and the Vienna Declaration and Programme of Action;

Recalling the General Assembly resolution 52/98 of 12 December 1997 on traffic in women and girls;

Welcoming the Commission resolution 51/7 on the Implementation of the Jakarta Declaration and Plan of Action for the Advancement of Women in Asia and the Pacific;

Welcoming also the Commission resolution 52/3 on the Follow-up to the Fourth World Conference on Women;

Recognizing that women's rights are human rights;

Recognizing also that combating trafficking in women can enhance human dignity;

Bearing in mind that integration of women in all aspects of development efforts is the foundation for sustainable development;

Bearing also in mind that political, social and economic empowerment of women can contribute effectively towards combating trafficking in women;

Expressing deep concern at the increasing number of women who continue to fall victims to trafficking and sexual exploitation;

Noting with concern the effect of the present economic crisis in the Asian-Pacific region on trafficking in women;

Noting also with concern the growing use of new information technologies for trafficking in women, prostitution and child pornography;

Expressing the view that globalization of the world economy has given rise to a global sex industry;

Bearing in mind that organized crime and easy money are important factors in trafficking in women;

Emphasizing the need for strengthening the efforts of Governments, intergovernmental and non-governmental organizations, business community, women's advocacy groups and other sections of civil society in combating trafficking in women;

Convinced that all forms of violence against women which is a heinous crime, including trafficking in women, are incompatible with the dignity and worth of a human person;

Affirming that research and studies should be conducted on all important aspects of women in development with special emphasis on trafficking in women;

Recognizing the important role being played by regional and sub-regional organizations such as ASEAN, SAARC, Mekong Regional Law Centre, national authorities, NGOs and other sections of civil society in combating trafficking in women;

Urging the international, multilateral and bilateral donor agencies and organizations to provide financial support towards the implementation of the various recommendations and proposals for action, as contained in this Accord and Plan of Action;

Adopt the Accord and Plan of Action for Combating Trafficking in Women in the Asian and Pacific region.

## **I. National Level**

### **A. General**

1. Establish and strengthen multisectoral national mechanisms such as national committees which consist of concerned Government agencies, NGOs and other relevant entities of civil society.
2. Formulate national plans of action in each country, specifically on trafficking and commercial sexual exploitation of women and children (hereinafter referred to as "trafficking") in line with the relevant provisions of the Beijing Platform for Action, the Stockholm Agenda for Action, and SAARC resolutions, in close collaboration among all related government agencies, with NGOs and other relevant entities of civil society.
3. Allocate needed financial and human resources to implement national plans of action in countries which have already formulated a National Plan of Action.
4. Undertake the preparation of national situation analysis on the problems of trafficking to be updated at least every two years in collaboration with NGOs and other relevant entities of civil society.

5. Enact laws where none exist and amend existing ones on trafficking to ensure decriminalization and confidentiality of victims, higher penalties for exploiters and traffickers, including clients and guardians, and adoption of victim-sensitive legal/judicial procedures, with scope for the participation of NGOs and other entities of civil society.
6. Establish special units in law enforcement agencies, staffed with trained police officers including female police officers, to handle cases of trafficking.
7. Provide more support to and promote further collaboration with NGOs and other entities in civil society which have been working on this issue.
8. Undertake a holistic, integrated and multi-level consortium approach in collaboration with NGOs and other entities of civil society to plan, implement and monitor projects.
9. Develop a sustained community based partnership in combating trafficking.
10. Amend laws, rules and regulations in order to allow assistance to victims of trafficking.
11. Build a core of committed public officials and improve governmental systems and procedures in assisting the victims trafficked.

#### **B. Prevention**

12. Provide legal literacy amongst concerned law enforcement officers, organizations and people at large.
13. Provide basic education, and relevant and quality training for gainful employment to women and children.
14. Provide more and better employment opportunities to women and children of appropriate age.
15. Formulate programmes for economic empowerment for women, such as increased amount of direct loan with very low or no interest from government banks, for self-employment activities.
16. Formulate specific affirmative actions for especially vulnerable groups of women and children, such as scholarship programmes for children at risk, or comprehensive community-based initiatives, or collaboration with private sector for career training and development.
17. Educate and mobilize the business community, including new information technologies and tourism related industries, as well as the media in combating trafficking.
18. Foster cooperation with media organizations to develop sensitivity and a code of ethics to the rights of trafficked persons, including the right to privacy and positive imaging of women in the media.

19. Disseminate as widely as possible, through mass media for awareness raising, information on laws, instruments, and protocol and conduct information campaigns on the realities of trafficking in women to the general public, including forms which can be easily understood by children and illiterate women.
20. Strengthen training activities of strategic target groups, such as lawyers and judges, and law enforcement personnel, including police and immigration officers.
21. Undertake appropriate socio-economic interventions and establish mechanisms in regions and areas which are targeted by traffickers.
22. Strengthen and support NGOs and other entities of civil society which have direct access to women and children at risk.
23. Devise more popular and innovative forms of education and consciousness raising on the issue, including use of local languages and dialects to outreach vulnerable groups and communities such as indigenous peoples.
24. Introduce free and compulsory education (where none exists) from elementary to high school level for all children.
25. Provide gender sensitive and other appropriate training and invest in capacity building to empower women and girls who could become the victims of trafficking, in collaboration with experienced NGOs and other entities in civil society.
26. Undertake comprehensive research on the social and economic cause of the sex industry at the national and international level particularly highlighting the factors that facilitate trafficking of women and children, and the cases of forced labour, slavery and slavery like practices. The surveys and research data should be able to provide information and understanding on the dynamics, causes and forms of the buying and selling of women, especially on the demand side i.e. sex tours, mail order brides, export of entertainers, etc.

**C. Protection and humanitarian treatment of victims**

27. Formulate or strengthen gender/child-sensitive judicial processes and training of judicial staff including judges, clerks, prosecutors to prevent the re-victimization of the victims of trafficking.
28. Ensure humane treatment of victims of trafficking under existing laws.
29. Conduct health impact studies on victims of trafficking.
30. Follow-up on convicted traffickers to prevent recidivism.
31. Protect victims of trafficking, their family members and service providers from reprisals of the perpetrators, including persons in positions of authority.



32. Develop and implement witness protection laws and procedures.
33. Provide access to competent and qualified interpreters/translators during all proceedings, and make available all relevant documents and records to the victim of trafficking.
34. Provide free legal assistance.
35. Find legal possibilities of redress for economic, physical and psychological damage caused to them.
36. Provide victims of trafficking access to the embassy/consulate of their home country or, if there is no embassy/consulate representation, provide access to a diplomatic representative of the State or to any national or international authority vested with the task of protecting such persons.
37. Take positive steps not to hold victims of trafficking in detention at any time in the course of investigation and prosecution of cases against traffickers. Moreover, avoid placing the burden of proof in any prosecution on trafficking or related criminal proceeding on the victims.
38. Make efforts to formulate/revise appropriate laws to avoid prosecuting victims for the use of false travel or other documents and/or visas.
39. Provide legal representation to victims of trafficking in criminal or other proceedings that may result in detention, deportation or loss of legal status, and provide legal representation free of cost if the victim cannot afford to pay.
40. Utilize all funds/possessions of the person convicted of trafficking for paying any debts the victim might have incurred as a consequence of being trafficked in addition to ensuring adequate compensation.
41. Accord to the victims of trafficking who are arrested under the criminal law of the country for committing an alleged crime, the following consideration:  
  
Physical, psychological or economic duress or coercion suffered by the victims of trafficking should be considered as part of any defense of duress or coercion during pre-trial and trial proceedings and as mitigating circumstances in sentencing, if convicted.
42. The voluntary movement of citizens should not be prevented or obstructed, including victims of trafficking out or into their own country at all times.
43. Governments of the countries of origin should use all possible diplomatic channels and resources in destination and transit countries to protect their nationals abroad.

**D. Sanctions against traffickers**

44. Confiscate assets of traffickers.
45. Compensate victims of trafficking.
46. Reform labour laws to include provisions against debt bondage and sexual harassment.
47. Investigate, arrest and prosecute officials involved in trafficking.
48. Take into consideration that extremely severe penalties (e.g. death penalty) against traffickers are less effective as judges are reluctant to pass such punishment while ensuring the complete enforcement of law relating to trafficking.

**E. Medical and psychological intervention**

49. Provide adequate, confidential and affordable medical and psychological care, such as counselling centres by the State or, if no adequate State agency exists, by a private agency funded by the State.
50. Provide strictly confidential HIV testing services only if requested by the person concerned. Additionally, any and all HIV testing must be accompanied with appropriate pre- and post-test counselling. The standard provided in the UN Centre for Human Rights and World Health Organization Report of an International Consultation on AIDS and Human Rights, Geneva, July 1989 shall be followed.

**F. Repatriation and reintegration**

51. Set up guidelines including detailed procedures related to assistance and treatment of victims and the coordination of actions among designated responsible agencies.
52. Focus on more empowering measures rather than suppressive ones.
53. Prepare agreed procedures among various authorities involved in combating trafficking such as the departments of immigration and the police, embassies and/or consulates, NGOs and public welfare agencies.
54. Develop survivor programmes which help the victims of trafficking in becoming active agents in engaging society to confront trafficking issues.
55. Improve the reintegration process for victims of trafficking with systematic assistance to reintegrate them into their societies and with follow-up activities.
56. Provide assistance to victims who need assistance in the areas of employment, education or further vocational and other training, housing and special health care and services.
57. Develop and provide clearly defined but flexible reintegration programmes to be provided by the local agencies, whether they be governmental or non-governmental organizations.

58. Promote consultative processes with victims and organizations dealing with victims of trafficking in the formulation of legal reforms, protection and reintegration strategies.
59. Facilitate the safe return of victims of trafficking, in line with their wishes, seeking flexibility in bilateral agreements in cases where victims express the wish not to return to the country of origin.
60. Enhance the role of local government in providing social support for victims of trafficking.
61. Create and support multi-disciplinary teams to address the aspects of healing and redress for victims of trafficking.
62. Establish (where none exists) government mechanisms for the reintegration of victims of trafficking.
63. Support family and community-based programmes for victims of trafficking.
64. Provide the necessary funds to enable victims of trafficking to return to their home country and for court proceedings.

#### **G. Information/Monitoring Mechanisms**

65. Ensure integration of the principles contained in key international laws and instruments such as CEDAW, CRC, Beijing Platform for Action and Stockholm Agenda for Action into national policies and programmes.
66. Organize, encourage and support information and prevention campaigns in the countries of origin and destination aimed at clarifying the opportunities and the legal rights of women in case they decide to migrate so that they can make informed decisions and seek help in case they fall victim to trafficking.
67. Increase the use of multi-media technologies for information sharing and educational purposes by parties engaged in the struggle to prevent trafficking.
68. Monitor child pornography, including the Internet and make the monitoring reports available to concerned authorities.
69. Identify and map source areas, routes, and destinations of trafficked women and children and establish a reliable and relevant database.
70. Undertake comprehensive, action-oriented, culturally-sensitive research into the situation of trafficking.
71. Introduce systematic procedures for documenting cases of trafficking in women.

72. Promote the involvement of embassies and consulates in the countries of origin in information dissemination, prevention, protection, repatriation and reintegration activities.
73. Develop programmes in cooperation with NGOs, both in countries of origin and destination, where they are in the best position to reach the women and children involved. To this end, NGOs should be provided with effective support through inter alia, greater development cooperation.
74. Promote and facilitate the exchange of information between relevant organizations in the countries of origin, transit and destination.

#### **H. Participation**

75. Stimulate and sustain participation of all concerned groups in society including youth at community, local and national level.
76. Enlist active participation of elected representatives, traditional and religious leaders.

### **II. Sub-regional/Regional/Multi-lateral Levels**

1. Create sub-regional and bilateral treaties setting the framework for detailed procedures to be taken against trafficking in women.
2. Implement regional and sub-regional Plan for Action for Children, such as ASEAN and SAARC.
3. Promote international mutual assistance in law, enforcement, including sharing evidence, exchange of information, joint investigation and exchange programmes.
4. Promote cooperation and link-up with international monitoring organizations, including CEDAW Committee, Human Rights Committee, UN Human Rights Commission, Committee on the Rights of the Child, INTERPOL, among others, to monitor the situation of trafficking.
5. Establish regional and sub-regional framework including focal points for trafficking.
6. Encourage networking and coordination of organizations, institutions and professional bodies, at the national, sub-regional, and regional levels.
7. Endeavour to hold a forum on an annual basis for exchange of experience, coordination and cooperation to follow-up Beijing Fourth World Conference on Women and Stockholm World Congress against Commercial Sexual Exploitation of Children.
8. Support and strengthen the UN inter-agency follow-up mechanisms for Beijing Platform

for Action and establish such mechanisms for the Stockholm conference.

9. Encourage and support the work in the area of trafficking in women of the UN Special Rapporteur on Violence against Women, who has explored these acts as one of the causes of violations of human rights and fundamental freedoms of women and girls, providing to her all relevant information.
10. Consider establishing a regional task force against trafficking.
11. Monitor and assess effectiveness of international, regional, and subregional instruments to eliminate trafficking.
12. Encourage bilateral partnership within the framework of official development assistance in projects against trafficking.
13. Establish centres for assisting the victims of trafficking where there are victims.
14. Promote more collaboration, coordination and cooperation among international agencies to maximize existing resources by avoiding the duplication of activities.
15. Analyze economic dimensions of trafficking in order to devise appropriate measures to combat trafficking.
16. Integrate this issue into new dimensions such as human security and combating and preventing organized crimes.
17. Reinforce the recognition of trafficking as a violation of women's human rights.
18. Explore the possibility of establishing new regional mechanisms to implement this plan of action.
19. Integrate this issue into important political and economic forum such as ASEM Forum and APEC.
20. Explore the possibility of establishing regional funds to assist victims of trafficking for repatriation and reintegration purposes.

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4 NOVEMBER 1998  
ENGLISH ONLY

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

**REPORT**  
**OF**  
**THE REGIONAL CONFERENCE ON TRAFFICKING**  
**IN WOMEN**

Bangkok, 3-4 November 1998

## **I. ORGANIZATION OF THE MEETING**

### **A. Attendance**

1. The Regional Conference on Trafficking in Women, convened by ESCAP in collaboration with the International Labour Organization (ILO), International Organization for Migration (IOM), Thailand National Commission on Women's Affairs (NCWA) and Asian Women's Fund (AWF), was held at the United Nations Conference Centre in Bangkok from 3 to 4 November 1998. The meeting was attended by 70 participants from national machineries for the advancement of women in 15 countries in the Asian and Pacific region. In addition, representatives from 19 non-governmental organizations, three intergovernmental organizations and four United Nations agencies attended the Conference.

### **B. Opening statement**

2. In his opening statement, the Executive Secretary of ESCAP expressed his concern on increasing commodification of women brought about by deepening poverty and deprivation as a result of recent economic turmoil. Rising unemployment and poverty, children especially girls dropping out of school, and falling exchange rates making tourism including sex tourism more attractive would be conducive to increased trafficking of women and children for sexual exploitation. One year after the 1997 International Conference on Trafficking and Commercial Sexual Exploitation of Women and Children in Manila, this Conference was a timely occasion to review the progress or lack of progress which had been made on this issue. The Executive Secretary stressed that the strategies to combat trafficking in women and children must confront the transboundary and international nature of the activity and further indicated that efforts should also be targeted, particularly in the source areas, and multi-dimensional approaches be concentrated on those focused targets.

3. While noting the commendable efforts made at the national, subregional, regional and international levels to combat trafficking, the Executive Secretary mentioned that resolutions adopted at ESCAP urged governments to accelerate implementation of the Beijing Platform for Action, including a directive to convene this Regional Conference on Trafficking in Women. It was envisaged that this Conference would be the starting point for a regional consensus on measures to counter trafficking, covering important proposed action by countries such as adopting national plans and establishing national mechanisms and entering into bilateral and subregional agreements. Such a regional consensus, he stressed, would demonstrate the commitment of countries in the region to address this issue. The Executive Secretary concluded his opening statement by pledging ESCAP's continuing support in the endeavour of building alliances and partnerships among governments, NGOs, members of civil society and international agencies to translate policies into action which would contribute towards the prevention and eradication of trafficking and commercial sexual exploitation of women and children.

4. Following the opening statement of the ESCAP Executive Secretary, Ms Yasuko Takemura, Councillor and Chairperson of the Committee on General Affairs in the House of Councillors, Japan, made her opening address. As a member of the Japanese Parliament for the last 12 years, she had supported and had always been involved in women's issues, particularly in violence against women as well as women and minorities' rights. In this context the trafficking in women for the purpose of sexual exploitation is the most important issue for her. Asian women who are relatively poor, lack skills and are often illiterate, have little or no opportunity to travel independently to work legally as migrant workers in wealthier countries.

Consequently, they have no other option than to depend heavily on recruiting agencies and brokers who are often members of criminal networks and syndicates and bring these women to Japan often under false pretenses. Quoting cases of sexual exploitation in the past and present, Ms Takemura indicated that the problems of sexual exploitation of women were complex and complicated. She concluded her address with the hope that the partnership for the prevention and eradication of trafficking in women would not only be materialized in the forms of codes, agreements or minimum standards as the result of this conference, but also that practical cooperation and an accessible network in exchanging of information would be developed.

### **C. Election of officers**

5. The meeting elected Ms. Ulmila Shrestha (Nepal), Chairperson, Mr. Mushtaq Ahmed Khan (Pakistan) and Ms. Sriwatana Chulajata (Thailand), Vice Chairperson, and Ms. Lies Siregar (Indonesia), Rapporteur.

### **D. Adoption of the Agenda**

The meeting adopted the following agenda.

1. Opening session
2. Election of officers
3. Adoption of agenda
4. Keynote speeches
5. Panel Discussions
6. Working group sessions: Reviewing draft accord and plan of action
7. Consideration and adoption of Draft Accord and Plan of Action
8. Consideration and adoption of report
9. Closing session

## **II. KEYNOTE SPEECHES**

6. The substantive session of the meeting was opened by the representative of Thailand, Senator Dr. Saisuree Chutikul who delivered the keynote speech on actions needed to combat trafficking in children and women. This was followed by a presentation by the representative of the South Asian Association for Regional Cooperation (SAARC) on the initiatives undertaken by SAARC against the trafficking of women and children in South Asia. Lastly, an overview of the international and regional mechanisms and initiatives on trafficking in women was made by ESCAP.

7. Practical action in three key areas were identified to effectively combat the crime of trafficking in children and women. These included (i) greater advocacy and awareness raising among all actors and potential actors (NGOs, international organizations, concerned officials) working on trafficking and the public at large to improve understanding of the issues and to help change attitudes towards victims of trafficking; (ii) national actions needed to address areas of prevention, protection, law reform and law enforcement, repatriation and reintegration, documentation and research and most importantly improved coordination of national activities; (iii) cooperation between countries at subregional and regional levels required coordination in a number of areas including repatriation, reintegration, extradition agreements and mutual legal assistance and cooperation in law enforcement and criminal justice processes to ensure traffickers are brought to justice, harmonization of laws and improved information sharing, exploring the involvement of other fora in action against trafficking (e.g. ASEAN and its various committees,



Mekong subregional group, joint commission of border affairs). Whereas planning and formulation of effective strategies and guidelines were important, greater emphasis should be put on action and implementation.

8. The South Asia experience and actions taken towards the formulation of a subregional convention on preventing and combating the traffic in women and girls for prostitution was the result of conscious efforts within the South Asia subregion to seriously address the problem.

The priorities attached to the problems faced by girl children gave rise to the SAARC Decade of the Girl Child (1991-2000) and specific interventions for the situation of girls in especially difficult circumstances. These actions in turn gave rise to accelerated efforts to strengthen national programmes to address the concerns of the girl child. The subject of violence against women including trafficking in women and children for prostitution was placed on the agenda of the SAARC Ninth Summit in 1997. The grave concern expressed by governments of the problem and their pledge of commitment to coordinate efforts on this issue paved the way for the elaboration of the draft Convention on Combating the Crime of Trafficking in Women and Children for Prostitution which is expected to be signed at the Eleventh Summit in 1999.

9. The international standards on trafficking and international actions undertaken to address the problem of trafficking was discussed. Within the activities of the various United Nations bodies mandated to work on this concern (Commission on the Status of Women, Commission on Human Rights and Commission on Crime Prevention and Criminal Justice), focus has been given inter alia, to the adoption of international resolutions and the formulation of model strategies and practical measures and programmes of action to combat trafficking and its new forms. Given the importance attached to trafficking issues in recent years by the international community states are increasingly being called upon to account before various international fora and to register their international commitment to international policy on trafficking time and again. The programmes and related activities of specialized agencies and other entities of the United Nations system have played an important role to assist and bring about change in conditions at national and regional levels to enable the translation of international commitments into action through the support of advisory and technical services. The work of the non-governmental organizations working on trafficking have been instrumental at national and sub-regional levels to create greater awareness of the dangers of trafficking. In many cases they have become an important part of national plans of action on trafficking and in law reform efforts. Looking ahead, the increasing use of new information technologies for the purposes of prostitution and other forms of sexual exploitation will compound an already difficult problem for those working in the field of trafficking. The Asian economic crisis and the deepening poverty of many countries across the region is predicted to see an escalation in the trafficking of women which is likely to spill across borders. Corruption among law enforcement officials and vested interests in the trade of trafficking are unlikely to disappear and there will be fewer resources to support national efforts let alone regional ones to combat trafficking.

10. In the discussion that followed guidance was offered on how to harness political support of regional bodies such as ASEAN and the importance attached to direct communications and approaches to the Ministry of Foreign Affairs to have the issue of trafficking in women and children placed on the agenda and working closely with those involved to keep them informed of developments. Taking the experience of one country, dealing with male demand and its linkage to trafficking for prostitution and other forms required that these issues be covered in national laws and to be brought within criminal justice processes.

11. There was some discussion on the importance of poverty eradication in stopping the problem of prostitution. A view presented was whereas poverty may be a pre-condition, it should not be considered the sole cause of the trafficking problem. Other contributing factors may be

lack of education, greed, and lack of parental care.

12. The criminal aspect of trafficking in women and the crime networks that exist which need to be studied was identified as another dimension which had not been discussed. In this respect the meeting was informed that work is currently being undertaken by the International Centre of Crime Prevention under the Office for Drug Control and Crime Prevention on the inclusion of an Optional Protocol on trafficking on women and children to the Convention Against Transnational Organized Crime. The meeting was informed that formulation of the draft Optional Protocol was expected to be completed by January 1999 and is scheduled for discussion and finalization by member states by the year 2000.

13. Human rights of women needed to be underscored and there were international mechanisms available, such as CEDAW, Beijing Platform for Action which could contribute towards national efforts on public awareness.

14. Problems related to law enforcement could be tackled by the establishment of special units within police departments which have been undertaken in some countries and the exposure of those officials involved in different experiences through country-exchange programmes to see the different practices adopted in other countries in working on the same problem.

### **III. PANEL DISCUSSIONS**

#### **A. New Trends, Approaches and Actions - Role of NGOs**

15. The vice chairperson opened the panel discussion by inviting the first panelist from International Movement against all forms of Discrimination and Racism (IMDAR) to address the meeting. IMDAR's activities have included linking the feminist movements in sending and receiving countries in Asia to develop regional and international cooperation to empower the victims of trafficking. IMDAR took up the issue of trafficking as a case of multiple discrimination combining discrimination against women in prostitution, against "illegal" migrant workers, against non-Japanese Asians, against indigenous peoples and against women. To date, IMDAR has organized two symposia for the empowerment of the victims of trafficking in Asia and has prepared a manual to facilitate the training of police officers and other concerned government officials.

16. IMDAR believed that while domestic legislation is indispensable, it alone was not sufficient to counteract the broad range of interconnected operations the global sex industries have developed to recruit and traffic women into Japan. She proposed the need for bilateral agreements between Japan and the countries of origin and the development of regional and international legislation and plans of action to combat the global sex industry. Of equal importance was the need to develop programmes to support survivors to reintegrate into their home communities. Furthermore, to guarantee the human rights and dignity of the victims, it was crucial to develop training courses for police officers, immigration and government officials, as well as concerned private citizens to ensure that victims cease to be treated as criminals.

17. In the next presentation, the Director of Crisis Center SABR of Uzbekistan introduced the objectives and activities of SABR Crisis Centre, established in September 1996 in Samarkand (Uzbekistan), which aims to render emotional, psychological and legal support to the vulnerable groups of the population, including women and young people. During the period of November 1996 to June 1998, the centre provided telephone counselling consultation services to 1,969

persons and personal consultations at the SABR Centre to 244 persons. In the same period, 16 seminars were arranged all over the region and an information bulletin was prepared.

18. Since independence, the severe economic situation had increased the cases of prostitution. However, the issue of trafficking in women was not critical yet in Uzbekistan. To keep the issue in check, the representative of SABR proposed a number of recommendations for further action, including (i) the consolidation of governmental and non-governmental structures in order to address the problem of trafficking and trade of women for the purpose of prostitution, (ii) establishment of more crisis centres/shelters for victims of trafficking, (iii) establishment of health care centres for HIV/AIDS and other venereal diseases and organizations of workshops together with training for HIV/AIDS volunteer workers in the dissemination of information on prevention of such diseases.

19. In the third presentation, the Assistant Coordinator of SANLAAP, India introduced the major findings of a study on trafficking conducted by his organization, which was commissioned by UNICEF, Calcutta. The recommendations made by SANLAAP based on this study included, among others, that (i) the buying and selling of minors per se must be punished heavily, (ii) introduction of legislation to make marriage registration compulsory in India, (iii) more straight forward punishment for traffickers, (iv) orientation of police, authorities, judiciary etc., and (v) simplification of the repatriation process and to look into reintegration of the rescued children in prostitution - through government agencies and NGOs. He also stressed that an awareness package should be designed by the Government to raise the education and legal awareness to the vulnerable masses and NGOs with the help of local bodies and the government should focus on risk areas at the grass-root level to prevent the induction of young girls into prostitution. He concluded his presentation by proposing that the implementation of these recommendations by the appropriate bodies would go a long way in alleviating the status of such children who were at risk and that swift action was needed to prevent more children from walking into this trap in future.

20. The representative from ANWIM, Bangladesh, in her presentation criticized governments for being mainly concerned with trafficking as an issue of border controls or health hazards without any real concern for the victims. There had been little concern for the question why people were migrating and being trafficked. She pointed out that the socio-economic context of trafficking was important and that the elimination of poverty had not been sufficiently addressed. She focused on the legal and social discrimination faced by women in South Asian societies where women's social status depends primarily on their marital status. The frequency of polygamy, desertion and divorce, demand for dowry has lead to women being lured into trafficking as their families cannot afford to accept them back.

21. She recommended the need for proper enforcement of birth and marriage registration, for endorsement of CEDAW and CRC provisions into domestic legislation and to reform discriminatory personal laws. Noting that NGOs have focused on awareness building, sensitizing of police and border personnel and legal aid, she proposed interlinked strategies for legal assistance, simplifying administrative procedures for recovery and reintegration based on the victims consent, and bilateral extradition agreements to facilitate the prosecution of trafficking agents.

22. The final presentation of the session was made by the representative of Global Alliance against Trafficking in Women (GAATW). She introduced the aims and strategies of GAATW which included training and research and provision of assistance to women and child victims of international trafficking. GAATW had also organized human rights training to familiarize

activists with the international human rights instruments and mechanisms.

23. She criticized state laws on prostitution for contributing to women's powerlessness as they were often used as repressive tools by both the law enforcement machinery and traffickers to abuse and exploit women in prostitution. On the question of whether it is more useful to apply the law to improve the working conditions of sex workers or to seek to eliminate the whole sex industry, the view supported by GAATW was that prostitution per se is not violence against women. The elements that needed to be combated were the use of force and slavery-like practices. Where prostitution is forced by deception, coercion or violence, the law must be enforced against recruiters, brokers, agents and employers. To this end, she proposed a new definition of trafficking which focused on the core elements of violence, deception and abusive practices in recruitment, transportation and working and living conditions. The major concern, was not to fight against migration (legal or illegal) nor prostitution per se but rather to focus on bringing an end to abusive recruitment and abusive practices against women.

24. GAATW also proposed the development of international standard rules for the humanitarian treatment of trafficked persons to be used as a guide for government action in countries of origin, transit and destination. These standard rules would include, among others, (1) freedom from persecution or harassment by those in position of authority, (2) access to competent translators during legal proceedings, (3) access to legal assistance and legal representation during criminal or other proceedings, (4) access to legal possibilities to restitution including compensation, (5) provision to enable women to press criminal charges and/or take civil action against their offenders, such as temporary stay permit during criminal and/or civil proceedings and adequate protection as witnesses, (6) legal permission to stay if a return to one's home country is unsafe or if so desired, assistance to return and (7) protection against reprisals either from trafficking agents/violators or from the authorities.

25. The floor was opened for discussion following the panel presentations. A representative from the Philippines noted the important distinction between prostitution and trafficking. Those two words are different although interrelated, and so too their solutions and strategies. She also remarked upon the different approaches by governments and NGOs, with the former being more interested in crime prevention and the latter in empowerment and protecting individual rights.

Another participant, from Cambodia, stressed that although awareness raising was important, as many panelists had raised in their presentations, it was far more crucial to emphasize rural development which was the cause of poverty. She further mentioned that trafficking could only be alleviated by eliminating poverty and that communities should be self-supportive. Cooperation between NGOs and governments at national as well as international level was of critical importance as neither can function without the other. Repatriation remained one of the biggest problems as legal procedures still took a long time. Building capacity within NGOs and among government officers working on the problem was also important.

## **B. New Trends, Support and Action –**

### **Role of Governments and International Organizations**

26. Five panellists joined the discussion on this agenda item. The representative of ILO opened the discussion by presenting his agency's work in the area of trafficking in children. He observed that trafficking flows were largely related to perceived economic disparities, most often resulting in labour exploitation, including sexual exploitation. Low levels of education, dysfunctional families, single parent households, and family debts were some of the characteristics of trafficked children. In designing and implementing intervention programmes, there was a need to recognize the primary role of the national government to legislate improved laws to combat trafficking and to strengthen law enforcement. While NGOs played a significant role in combating trafficking, it was pointed out that in contrast to traffickers who were often part of well-organized international criminal networks, coordination among concerned agencies was virtually absent. As long as there continued to be many victims of trafficking, a comprehensive reintegration programme remained a priority concern. This called for a holistic and multi-disciplinary approach and required expert agencies in their respective noted fields of expertise to join forces to offer a comprehensive package of services. Better information-sharing including ongoing and planned activities among all actors - national and international - was a prerequisite to a comprehensive and coordinated programme.

27. The ILO representative informed the panel about his agency's interventions to combat child labour and elaborated on the activities carried out under its International Programme on the Elimination of Child Labour (IPEC). ILO had carried out pilot activities to combat trafficking in children in several countries in the Asian and Pacific region, based on which a sub-regional programme had been developed. Possible interventions included (i) direct action programmes to prevent the problem and reintegrate victims; (ii) advocacy for policy change and campaigns; (iii) capacity building by strengthening legislation and law enforcement, research and information dissemination, and in-country coordination and networking.

28. The representative of International Organization for Migration (IOM) summarised the problems of trafficking in women and gave some elaboration of its new approach in providing direct assistance and support. He observed that approaches and support in the action against trafficking in women had to be seen in the context of migration and the prevailing political, economic and social environment in the region. The present crisis in the region had forced many countries to severely restrict the recruitment of foreign workers, leading to a drastic reduction in the possibilities for obtaining work permits. Since the demand for cheap and irregular labour continued to grow, irregular migration had been on the rise, providing the traffickers with a market for "services" such as fraudulent travel documents, transportation, guided border crossings, and accommodation. IOM viewed trafficking as part of a larger migration problem and considered trafficking in women particularly disturbing as female migrant workers were more vulnerable than male migrant workers. The problems facing the women migrants had been further compounded by several factors, including the growing reliance for protection on the employers and agents; violation of their basic human rights in the form of extortion, debt bondage, indentured servitude as well as sexual violence and exploitation; and constant fear of being arrested and deported.

29. Whereas IOM had traditionally focused on prevention and provision of direct assistance to the victims of trafficking, in light of evolving circumstances, it was considering to strengthen its activities in the area of direct assistance and support. In that context, IOM believed that it was important to recognize that victims of trafficking were primarily victims of crime and exploitation rather than offenders of immigration laws. Viewed in that way, governments,

international organizations and NGOs could undertake a wide range of activities, including appropriate legal and legislation to penalize traffickers, legal assistance to the victims, and proper legal and economic protection of the victims.

30. The representative of the Council of Europe gave a brief elaboration of its work in the field of action against trafficking in human beings for the purposes of sexual exploitation. She observed that trafficking was central to human rights and the Council of Europe had undertaken activities to combat a phenomenon which constituted a violation of women's dignity and integrity, their freedom of movement, and some instances, their right to life. At the societal level, trafficking constituted a modern form of slavery.

31. Europe faced several challenges in trafficking in human beings. Modern forms of trafficking were increasing rapidly with enormous sums of money involved, putting it in the category of large scale and organized crime. It has a wide geographical scope with worldwide number of international migrants rising from 75 million in 1965 to about 130 million in 1995.

In several countries, prevailing political, economic and social conditions appeared to encourage migration and create opportunities for trafficking. The inadequate legal and institutional safeguards, both at the national and international levels, had complicated the issue. Differences in opinions had prevented the development of an acceptable definition of trafficking at the international level. Traffickers had begun to use modern technologies, including information technologies such as Internet, to carry out their activities. As a consequence, trafficking in the forms of offers of employment, e-mail-based marriage bureaux, sex tourism had been on the rise.

The mass media was beginning to take some interest in the problem of trafficking and contributing to greater public awareness, although it was not always positive as presentation of trafficking was often impregnated with sensationalism.

32. The Council of Europe had undertaken several actions based on a multidisciplinary approach. Given the enormous complexity of the problem, different kinds of actors would have to be involved at different levels. At the national level, governments, NGOs and the media needed to work together. At the bilateral level, cooperation was needed between both national authorities and NGOs of countries of origin. At the international level, a multisectoral and multidisciplinary approach would be needed, as pursued by the Council of Europe which focussed on (i) awareness-raising and action oriented activities, and (ii) activities in the legal field.

33. The representative of the National Commission on the Role of Filipino Women observed that the region's economic crisis had given rise to massive lay-offs and economic dislocations to a large number of men and women, engendering their life support systems and increasing the vulnerability of women to abuse and exploitation, including trafficking and prostitution. She noted some trends. Internal trafficking for prostitution and sexual exploitation continued to occur due to aggressive tourism campaigns. Cross border law enforcement and monitoring remained ineffective. An increasing number of girl children were becoming victims of trafficking. New forms of technology were being used for the purposes of pornography, prostitution and marriage matching. Unscrupulous elements were also exploiting tradition forms of exchanges such as au pair arrangements and student exchange programmes for trafficking.

34. She observed that the last five years had seen a higher degree of awareness of the issue of trafficking of women and children such as the adoption of several resolutions by the United Nations General Assembly and the articulation of problem in the Beijing Platform for Action.

Regional and sub-regional associations and arrangements had also become active in awareness

creation. She felt that the most active engagement of the issue had been demonstrated by the NGOs. The experience of two NGO networks active in this field showed that several strategies could be followed in combating trafficking in women. First, a holistic and integrated approach was necessary to address the complex dimensions of the problem of trafficking. This approach required a multilevel and consortium approach, utilizing diverse programmes, services and methodologies. Second, a sustained community partnership had to be developed. Third, a legal framework for prostitution and trafficking was needed. Fourth, a core group of committed public officials was required along with improved governmental systems and procedures in assisting trafficking victims. Fifth, a systematic and standardized data format had to be developed to capture the magnitude, definitions, concepts, incidents, actors and routes in monitoring trafficking cases over time. Sixth, bilateral partnerships within the framework of official development assistance must be encouraged. Seventh, the development of survival programmes for trafficked victims was important. Eighth, sustained education and information campaigns and media visibility was needed. And lastly, the education of males as part of the anti-trafficking campaign was of critical importance.

35. The representative of Sri Lanka informed the conference that trafficking in women was not a big problem in her country as it was quite isolated from the major trafficking routes. However, the incidence of boy and girl prostitution was on the rise, particularly with the expansion of the tourism sector. The growing number of school drop outs were providing an easy source for those involved in exploiting children and young persons. Among the significant actions taken by the Government of Sri Lanka included the 1995 amendment of the Penal Code which increased punishments in cases of rape, incest and sexual harassment and which expanded the definition of trafficking to include detention of any person without his/her consent (Section 360A), other related laws were currently under review (Vagrants Ordinance, Brothels Ordinance) and task forces on child abuse and migrant women had been established.

36. Reports on the situation of trafficking in women and children were then presented by the respective country representatives before the floor was opened for discussion. Among the issues discussed, note was taken that over the years, trafficking as an issue had been integrated into both the social and political agenda of many countries. In some countries laws and policies to combat trafficking were enforced and local, national and international networks against trafficking as well as national committees and taskforces has been established. Nevertheless, there were many more aspects which should also be strengthened. Foremost of the areas in need of greater strengthening and which was referred to throughout the conference was the field of law enforcement, where the involvement of the police in the trafficking in women and children was noted in some cases.

37. It was underscored that one could not ignore the fact that trafficking in women and children is a large global industry and that this required examination of the nature of the business - both local and international manifestations. Multisectoral cooperation was considered indispensable in tackling the problem because of the local and global dimensions.

38. A number of participants also stressed the need to focus activities more at the grassroots levels to concretize action to combat trafficking in women. Although regional and international level conferences assisted countries to highlight issues for the implementation of resolutions, it was noted that these conferences did not directly benefit victims of trafficking. Several participants proposed that one way to bridge the gap between the grassroots level needs and the international/regional conferences would be to invite people directly affected by the problem to such conferences to voice their concerns. It was noted that the words of victims were often the strongest tool to plan strategy. The recovery and empowerment of victims was also raised as



critical issue which needed urgent attention. Establishment of regional funds to rehabilitate victims was also suggested.

39. With regard to regional actions, the UNDP representative took the opportunity of the conference to inform participants about a new sub-regional (Mekong) project to be funded by the United Nations Fund (Ted Turner Fund). Under the supervision of the UN Working Group on Trafficking in women and children in the Mekong sub-region, the project will provide a multi-disciplinary approach, using the technical expertise and resources of UN agencies to address trafficking with regard to prevention, protection, recovery and reintegration and law enforcement, in partnership with governments, NGOs and affected communities

40. Suggestions were also made to organize an awareness campaign at various levels, including a consolidated lobby by multi-national groups at national level, campaigns through media to raise social awareness, and surveys to find out the root cause of both trafficking and trafficked sides. While formal and non-formal education at various levels were key for prevention, many participants stressed also the importance of training at law enforcement level, particularly in border areas.

41. NGOs alone or individual action by one country without cooperation from neighbouring countries was considered insufficient to combat the transnational character of trafficking in women and children. It was proposed that the time had come for all actors to join hands and call upon either the United Nations General Assembly, the United Nations Economic and Social Council (ECOSOC) or other competent international forum to organize a global meeting of governments to seek solutions in combating this problem and to establish cooperation among governments. The action undertaken by the UN in the global fight against narcotics was cited as a model example of the kind of necessary cooperation that could be achieved.

42. Lastly, a final recommendation was made that a report on this conference along with the Accord and Plan of Action be submitted to the forthcoming Commission session for the consideration and further guidance of the Secretariat. The same report will also be submitted to the Regional Inter-agency Committee for Asia and the Pacific (RICAP) for inter-agency collaboration and cooperation in the full implementation of the Plan of Action.

#### **IV. ADOPTION OF THE ACCORD AND PLAN OF ACTION**

43. The regional conference unanimously adopted the Accord and Plan of Action, as set out in Annex 1.

#### **V. ADOPTION OF REPORT**

44. The regional conference adopted this report on 4 November 1998.



## Opening Statements

Mr. Adrianus Mooy

*Executive Secretary, Economic and Social Commission for Asia and the Pacific*

Senator Saisuree Chutikul, Councilor Yasuko Takemura, Distinguished participants, ladies and gentlemen,

It gives me great pleasure to welcome all of you to the Regional Conference on Trafficking in Women which ESCAP is co-organizing with the International Labour Organization, the International Organization for Migration, the National Commission for Women's Affairs of Thailand and the Asian Women's Fund. It has been one year since the 1997 International Conference on Trafficking and Commercial Sexual Exploitation of Women and Children was held from 6-7 November in Manila. At that time, this region was beginning to undergo economic turmoil and since then, many countries in this region have experienced and are still reeling from the harsh impact of the crisis. It has been reported that one of the negative ramifications is the increasing commodification of women brought about by deepening poverty and deprivation.

Resolution 52/98 on Traffic in Women and Girls adopted by the United Nations General Assembly in December 1997, noted with concern the increasing number of women and girl children from developing countries and from some countries with economies in transition who were being victimized by traffickers, and emphasized the need for more concerted and sustained action over the alarming levels of trafficking. In this region, the deteriorating economic environment is certainly cause for even more serious concern. Rising unemployment and poverty, children especially girls dropping out of school, and falling exchange rates making tourism including sex tourism more attractive and would be conducive to increased trafficking of women and children for sexual exploitation.

This Conference is thus a timely occasion for us – governments, NGOs, civil society partners, and international organizations to come together to review the progress or lack of progress which we have made on this issue. The meeting will provide the opportunity to search for new approaches and new solutions to this urgent problem. Now more than ever before, we have to cooperate with one another with the same focus, instead of competing and even duplicating efforts. Strategies to combat trafficking in women and children must confront the transboundary and international nature of the activity and therefore bilateral and multilateral agreements as a basis for taking action would be a good starting point. Efforts should also be targeted, particularly in the source areas, and multi-dimensional approaches be concentrated on those focussed targets.

The policy framework for concrete action at the international, regional, national and local levels on the key issues of coordination and cooperation, prevention, protection, recovery and reintegration, and participation, to combat the commercial sexual exploitation of women and children have been provided by various instruments. The Beijing Platform for Action, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Stockholm Agenda for Action have provided the framework and principles to approach the issue of trafficking of women and children.

While the economic situation has exacerbated the situation with regard to increasing the flow of trafficked human cargo, I am glad to note that continuing efforts have been made at the national, sub-regional, regional and international levels to combat trafficking. From various recent meetings and in-depth studies such as those conducted by the Mekong Region Law Centre, South Asian Association for Regional Cooperation (SAARC), ILO, IOM and NGOs, we have been apprised of measures taken by countries on prevention, protection, recovery and reintegration, and measures and mechanisms for cooperation and coordination. We have also been very encouraged to learn about the progress made with regard to the draft SAARC Convention on Preventing and Combatting Trafficking in Women and Children for Prostitution, and the approval in principle by the United Nations Fund for International Partnership of a project on Trafficking in Women and Children in the Mekong Sub-region.

Progress has also been made by IOM in the implementation of the CIS Conference Programme of Action. At the international level since the 1949 Convention on the Suppression of the Traffic in Persons and the Exploitation of Others has not been well supported, support action being initiated by the United Nations

Commission on Crime Prevention and Criminal Justice to combat trafficking in women and girls by the elaboration of new international legal instruments on illegal trafficking and transportation of migrants appears promising.

At ESCAP a resolution has been adopted on elimination of sexual abuse and sexual exploitation of children and youth in Asia and the Pacific. Two resolutions have been passed urging governments to accelerate implementation of the Beijing Platform for Action, including a directive to convene this Regional Conference on Trafficking in Women. It is envisaged that this Conference will be the starting point for a regional consensus on measures to counter trafficking, covering important proposed action by countries. These could include adopting national plans and establishing national mechanisms and entering into bilateral and sub-regional agreements following the pioneering example of the SAARC Convention. Such a regional consensus, would demonstrate the commitment of countries in the region to address this issue. We must of course, in the long term, if trafficking is to be eliminated, continue with our economic and social development activities and ensure that women are given equal access and opportunities in the process of development.

Ladies and gentlemen, the challenges before us are formidable but together, governments, NGOs, members of civil society and international agencies can build alliances and synergistic partnerships to translate policies into action which will contribute towards the prevention and eradication of trafficking and commercial sexual exploitation of women and children. I pledge the continuing support of ESCAP in this endeavour.

Thank you.



## **Opening Statements**

**Ms. Yasuko Takemura**

*Senator, Chairperson, Committee on General Affairs in House of Councilor, Japan*

It is my pleasure to join this important regional conference organized by UNESCAP, ILO, IOM and AWF. As a member of the Japanese Parliament for the last 12 years, I have always been involved in women's issues, particularly in violence against women as well as women and minorities' rights. And trafficking in women for the purpose of sexual exploitation is the most important issue for me.

Historically, the sexual exploitation of women is not a new phenomenon at all. To take the Japanese case, for example, poor farmers' daughters were sold as prostitutes to abroad around 1900, and this practices lasted until the 1930s. They are known as "karayuki-san". With the coming of colonialism and imperialism, however, Japan became involved in the exploitation of foreign Asian women. The case of the so-called "military comfort women" who were of Korean and other Asian nationalities, is a well-known fact. This means that today's problems are connected to a world-wide patriarchal system firmly rooted in the socio-economic history of mankind.

The contemporary situation, however, is different. The scale of trafficking in human beings in Asia has grown to a size never known before. This has to be seen in association with the promotion of tourism, expanding Mafia syndicates, increasingly unequal distribution of income in Asia, as well as wide-spread consumerism and materialism. And this has become a grave concern not only in Asia, but is also drawing a great deal of attention in other regions of the world.

### **Situation of Asian women trafficked to Japan**

Adult Asian women who are relatively poor, lack in skills and are often illiterate, have little or no opportunity to travel independently to work legally as migrant workers in wealthier countries. They have no other option than to depend heavily on recruiting agencies and brokers who are often members of criminal underground organizations. These criminals often bring Asian women to Japan under false pretenses.

It is, however, wrong to think that all Asian migrant women experience the same kind of conditions. Distinctions have to be made according to the different nationalities. Because this conference is held in Thailand, I would like illustrate the situation of Asian women in Japan by using three concrete cases of Thai women trafficked into the country.

- 1) There have been many incidences of Thai women entering Japan with faked Malaysian passports as Malaysian nationals did not require a visa to enter Japan as tourists until 1993. This is what happened in the case of one Thai woman, K, who was invited to do sightseeing in Malaysia. She was only 16 years old, and she spent a few days in Malaysia before being brought to Japan by her boyfriend using a forged passport. As a result of such cases, the actual number of Thai women staying in Japan illegally is thought to be larger than shown by official figures.
- 2) Another example is that of the Thai woman, S, who arrived at Narita Airport with three other Thai women escorted by their agent. Before reaching the immigration counter, they believed their immigration to Japan was completely legal. When she and one of the other women were asked to step into stretchable bags and hide inside the bags, however, they knew that something was not quite right. By then, it was too late, and their agent succeeded in trafficking four women into Japan although it seemed that only two had entered.

- 3) The third case is that of recent refugees from bordering countries in Thailand who are asked to use faked Thai passports in order to enter Japan. There has been the case of one woman who contracted AIDS and wanted to return to her family. However, having used a faked Thai passport and without a valid passport from her own country, she was in a state of "statelessness" and could not return home.

These are only a few examples of the many individual tragedies involved in this kind of business of human trafficking. One condition which is common for all trafficked women is the large amount of debt they have. By the time they arrive in Japan, most Thai women have accumulated on average around four million Japanese yen (approximately 25,000 US\$). Trafficking in women, therefore, means good business for crime syndicates.

The problem of sexual exploitation of women is very complex and wide-spread. This conference calls governments, international organizations and non-governmental organizations together to discuss the issues I have touched upon during the next two days. I am in great hope that the partnership for the prevention and eradication of trafficking in women will not only be materialized in the forms of codes, agreements or minimum standards, but also that practical cooperation and an accessible network in exchanging of information is going to develop. I am looking forward to the outcome of this conference.

Thank you for your attention.



## Keynote Speeches

### Mekong Region and Thailand

Dr. Saisuree Chutikul

*Senator & Advisor, Office of the Permanent Secretary, Office of the Prime Minister, Thailand*

#### Action Against Trafficking in Children and Women

I wish to thank the organizers for their invitation for me to participate in this important meeting. The trafficking in children and women is one of our serious concerns as this is considered as a form of human slavery. I sincerely hope that our deliberations will result in actions which will help alleviating the problems.

What is "trafficking"?

The United Nations' definition of trafficking is "illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption."

The Global Alliance against Trafficking in Women (GAATW), which is a no-governmental organization, defined trafficking in women, forced labour and slavery-like practices as follow:

"Trafficking in women: All acts involved in the recruitment and/or transportation of a woman within and across national borders for work or services by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion.

Forced labour and slavery-like practices: The extraction of work or services from any women or the appropriation of the legal identity and/or physical person of any women by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion"

The international Organization for Migration (IOM) defines trafficking in women as "any illicit transporting of migrant women and/or trade in them for economic or other personal gain."

One can see these definitions are incomplete. In the Mekong Sub-Regional Conference on "Illegal Labour Movements and Trafficking in Women and Children organized by Mekong Region Law Centre and the Thai National Commission on Women's Affairs held in Bangkok, 25-28 November 1997, a definition of the term "trafficking" was suggested as follows:

"1. Trafficking is the movement and/or transportation of persons by others using violence or the threat of violence, abuse of authority or dominant position, deception or other forms of coercion, for the purpose of exploiting them sexually or economically for the profit or advantage of other persons, such as recruiters, procurers, traffickers, intermediaries, brothel owners and other employers, customers, or crime syndicates.

2. The purposes of trafficking include, but are not limited to, the following: prostitution; domestic work including forced domestic labour; illegal labour; bonded labour; servile marriage; false adoption; sex tourism and entertainment; pornography; begging; and use in criminal activities.

3. The victims of trafficking are primarily women and girl children. Boy children and men can also be victims.

4. Trafficking includes transportation of persons within the boundaries of a country, across borders, within a region, or between continents.

## 5. There can be attempts and conspiracies to traffic.”

In that same conference, it was stressed that emphasis should be placed more on actions instead of debating on the definitions. Such definitions should be flexible working definitions that could be used by countries concerned. (I am putting this in as a warning footnote so that in our conference here we should not spend too much time on the debate.)

We already have had so many meetings, seminars and conferences on this topic. There are many studies available and much research with a wealth of information about this problem, although we still need on-going research to keep up with the ever-changing patterns of exploitation. We know about the increase of incidents, the existing patterns and routes of trafficking in the region. There are information on the characteristics of women and children exploited. We know about the purposes of trafficking, the contributing factors, the push and the pull factors, etc<sup>1</sup>. We have enough data to proceed to recommendations and actions at the local, national, regional and international level. There are excellent comprehensive and exhaustive reports prepared by consultants and various agencies. These materials, I think, are available from agencies such as, ESCAP, ILO, UNICEF, UNDP, IOM, GAATW, Mekong Region Law Center, ASIANET and the National Commission on Women's Affairs, to name just a few.

Because of time constraint and since we are mainly interested in actions against trafficking in women and children, I would like to discuss some of the practical suggestions which could be undertaken or developed further in each of our countries based on our experiences in Thailand.

### **Actions**

#### Advocacy and raising of awareness

Even though trafficking in women and children is already a global concern, it is unfortunate to find that many governments, high-ranking officials and authorities who are potential actors, even the public at large, still view the phenomena too lightly and as not so significant. Therefore, not enough and appropriate actions are taken to address the problem.

The NGOs, the international organizations and concerned, interested officials, and individuals should be given sensitization programmes, for example, by working closely with the mass media in disseminating information on trafficking. This may include illustrations of the cases involved, the plights of these children and women, the insights into trafficking realities and their impacts, etc. Public forum, seminars, focus groups, etc., can be organized to help improve the understanding on trafficking and to help change attitudes towards the victims.

Most of our countries in this region have ratified the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women. These two powerful international instruments could be used as a reference or as leverage point to actions. In many of our countries, the Universal Declaration of Human Rights, which is being commemorated for its 50<sup>th</sup> Anniversary this year, has been used to stimulate many initiatives which also can include children's and women's rights and dignity.

In Thailand, we are fortunate to have a new Constitution which advocates human rights, and the rights of different groups especially the disadvantaged and marginalized groups. Public participation is encouraged and, in some instances, is a requirement that issues and decision-makings are subjected to public discussion. In this way, problems related children and women are to be heard more; this includes abuses and exploitations of children and women through trafficking.

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<sup>1</sup> For example, trafficking patterns have been identified which involve countries such as Myanmar, China, Laos, Vietnam, Cambodia, Thailand, the Philippines, Sri Lanka, Bangladesh, Nepal as countries of origin to receiving countries such as Thailand, India, Japan, Singapore, Australia, USA, China. Trafficking is not limited only to Asia but is also occurring in Europe, Africa and Latin Americas.

The causes for trafficking may be for a combination of reasons such as poverty, economic reasons and employment opportunity, the sense of gratitude towards parents, false promises by traffickers, being lured or forced into unwanted works through mafia-like arrangements.

## **I . National Actions**

Countries in our region are either of both or all these as sending, transitory and receiving countries for trafficking. Measures can be undertaken as follows:

### **1. Prevention**

- The lack of opportunities for education, formal no-formal and informal, not only pushes children and women into seeking better lives through other means but also makes them easy preys for traffickers. Basic education, and relevant and quality training for gainful employment, still are the most important preventive interventions.
- Employment for women and children of appropriate age is also very crucial, especially with an economic crisis happening now in our countries. Urgent programs such as increased about of direct loan with very low or no interest from government banks, for self-employed works is an example of responses to the economic downturn for laid-off employees.
- Specific affirmative actions for especially vulnerable groups of women and children to trafficking are very effective at least in Thailand. For example, special scholarship programs offered by the Ministry of Education, other NGOs and private sector, for children at risks, or comprehensive community-based initiatives, or collaboration with private sectors such as hotels for career training and development. The positive impact on the lives of these young girls is often more than one can imagine.

### **2. Protection**

- Information for trafficked women and children.  
These women and children or those who may come in contact with them need to know whether help is available and whom to call for help. This information can be in various forms of media such as brochures, radio and television advertisement or announcement. Hot line services should be provided.
- Attitudes of the police or immigration officers.  
In cases where police or immigration officers arrests women and children, usually for illegal immigration, it is necessary to assist these officers to understand that the women and children who are trafficked should be treated as victims and not offenders.
- Provision of assistance  
The usual practice after the arrest of the raid of entertainment places or brothels is to keep the victims in the immigration detention centres which are very crowded, at least in the case of Thailand. Some of the victims who may have gone through unpleasant of traumatic experiences may need other services such as counseling which the detention centre cannot provide. Therefore it is best for the victims to be allowed to stay in more appropriate places or shelters which can provided as well as other necessary services by the public welfare departments or the NGOs.
- Setting up guidelines for co-ordination actions.  
At present, in most of our countries there is a lack of detailed procedures related to assistance and treatment of the victims by agencies involved. Guidelines on these agreed procedures with designated responsible agencies including the NGOs should be established so systematic assistance can be given to the victims in place of on the case by case basis. Referral procedures should also be included in these guidelines.
- The need for training  
Training programmes should be organized for police and immigration officers, attorneys, judges, doctors and health officers, psychologists, social workers, community workers, etc, The topics for training can include issues on human rights, trafficking, techniques in dealing with and services for the victims, case studies on trafficking, guidelines on assistance procedures, etc. Training for multidisciplinary groups will facilitate networking and co-ordination within a country.

### 3. Laws, judicial process and law enforcement

- Some laws needed to be analyzed and amended.

Most of the laws consider migrants across borders without official documents as illegal persons. This situation might be formally justified. However, this group includes those who are lured, forced, falsely promised or abducted. These migrants should be treated as victims. Therefore laws, rules and regulations should be amended accordingly to allow assistance to this vulnerable and exploited group.

The amended laws should also embrace the need to arrest, prosecute and heavily penalize the traffickers and those abusers involved in trafficking.

An analysis to identify gaps of laws and regulations is a basic requirement for amendment, revision or formulation of new laws. This analysis should be undertaken not only by lawyers or those in legal authority but also by practitioners and the NGOs who are already working in the field.

- Improvement of the judicial process.

Whenever offenders are put up for prosecution, women and children who are victims usually have to become witnesses in the courts. This is a time consuming process. There should be provisions to give the victims temporary and safe shelters and other relevant assistance during the trial. There should also be attempts towards the improvement of the judicial process to speed up the process as, for instance, is usually possible, in the case of tourists who have to leave the country immediately after the incident. In Thailand, in our experience, judges need to be informed of the seriousness of trafficking as a crime. Too many a times, offenders are given a verdict for imprisonment but the actual imprisonment is suspended to a two-year probation. The police officers and the attorneys have told us that this is very discouraging as time and resources are given to collect relevant information and the judges seem to ignore the plight of women and children.

Since the judges cannot be “trained”, and we are not supposed to “tell” the judges what to do, it remains to be our challenge as to what can be done in this respect.

- Law enforcement

Laws in some of our countries are good laws. However, there is a lack of strict enforcement. Enforcement officers may not consider trafficking as one of their priorities or, in some cases, may be corrupted and traffickers are not brought to justice.

Monitoring each case, when it comes to the attention of the authority or of the agency concerned by the NGOs or the specially designated team, is helpful. This does not only serve as a watchdog for law enforcement but also assists in the whole process.

Police should look at the women and the children as an effective source for information in order to fight against organized crime syndicates.

### 4. Repatriation and reintegration

Eventually, the women and the children will be repatriated to their original or sending country.

- Guidelines for repatriation

Here too there is a need to have agreed procedures. This involves the various authorities such as the immigration office, the police office, and the embassies or the consulates, the NGOs, the public welfare agencies, etc.

- Involvement of the embassies and consulates and bilateral agreements between the countries.

The embassies and the consulates have to participate actively in the repatriation process. Many embassies are not prepared or unwilling to do this. Sometimes it is because of the lack of their own national policy. Therefore bilateral agreements between the countries are necessary; and this requires an active role of the Ministry of Foreign Affairs.

There are other channels which have not yet been explored, such as, various joint commissions between the countries on border affairs. Included in their agenda for their regular meetings should also be trafficking in women and children where they can also help facilitate the prevention as well as the repatriation process.



- **Reintegration program**  
Repatriation without systematic assistance to reintegrate trafficked women and children into their societies or without follow-up activities is not going to be effective.  
In our country, we know of children and women who, having been sent to the border, came right back to Bangkok again, even before the social worker who accompanied them returned to their office.  
The women and the children will need assistance to settle down, perhaps get jobs, get education or further training. They may also need housing and special health care and services.  
The country of origin or the sending country should have clear defined but flexible reintegration programs provided by the local agencies, whether they be governmental or non-governmental organizations.

## 5. Documentation and research

There is a need to document actions and practices undertaken in each country especially for recording obstacles and lessons learned. Best practices can be valuable for those organizations or agencies who may begin to take initiatives in assisting the trafficked women and children.

Comparative studies and in-depth or action research also can be very useful in our work.

## 6. Mechanisms and networks

The tasks in dealing with and assisting trafficked women and children involve many agencies, including the domestic and international NGOs. Moreover there is at present confusion on who is doing what and when as well as a lack of agreed procedures. The Conference held in Bangkok last November, organized by the Mekong Region Law Centre and the Thai National Commission on Women's Affairs mentioned earlier, proposed that, in our sub-region, there should be a national co-ordinating committee or taskforce established to look in to the work on trafficking in women and children and to serve as focal point for this issue. The committee should help lessen the confusion especially for the donor agencies (actually there is a confusion among the donor agencies also!) Their task is to help organize the co-ordinating work at the national level, establish various guidelines, facilitate co-ordination and networking between/among countries and networking with the local levels, monitoring and evaluation.

It is suggested that such co-ordinating body comprise representatives from all government agencies concerned, the academics, the domestic and international NGOs as well as international organizations. It should have multisectoral and multidisciplinary components.

Thailand has already established such a committee. Its mandate embraces many facets of works needed to be done related to trafficking in women and children. Time will not permit me to explain the planned action but those who are interested in this can contact us later.

## II. Co-operation between countries, at the sub-regional and regional levels

Some immediate concerns are:

- At the bilateral levels, establish bilateral agreements to help trafficked women and children. This should include co-ordination for repatriation, assistance in reintegration, extradition agreements and cooperation in bringing criminals to justice.
- Attempts should be made to analyze laws and relevant regulations in each country and to harmonize these laws among the countries concerned.
- Sharing information on trafficking among the countries as we are doing now.
- Eventually, there should be a declaration at the sub-regional or the regional level where common concerns can be advocated and actions can be strengthened.
- Other regional or sub-regional channels should be explored for the possibility of involving them in the action against trafficking. For example, ASEAN and its various committee such as ASEAN Women's Forum, ASEAN Youth, ASEAN police group, ASEAN attorneys and law groups, Joint Commission on

borders' affairs, Mekong Sub-regional group, etc.

All of the international organizations and international NGOs should work together and co-ordinate their work.

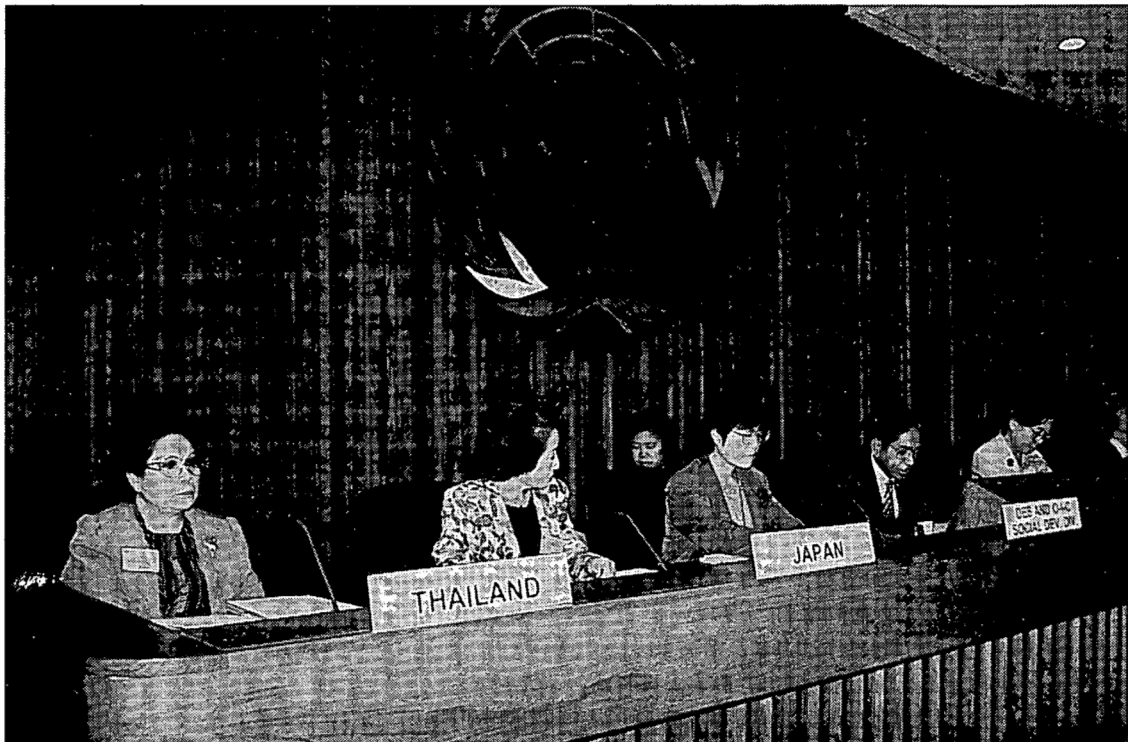
### **Trafficking in women and children is a violation of human rights**

All of us agree that the act of trafficking is the act of human rights violation: Violations of the right to life, liberty and security of persons, of the right to be free from slavery and of having freedom of movement, violations of the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, etc.

For those of us who have been working in the field of children's rights and women's right, the concept is already very familiar. But for a good number of people outside our fields, there is a need for constant reminders that they too have a role to play in alleviating the problems.

### **Actions now**

I would like to conclude by saying that planning and formulating the effective strategies and guidelines for our work are important, but implementation is even more so. Only actions **now** can help combat the trafficking in women and children. I hope that when we return to our work, there will be no going back to square one again. Let us keep moving forward as there are much work to be done.



## Keynote Speeches

### South Asian Association for Regional Cooperation (SAARC)

Ms. Kunzang C. Namgyel

*Director, Social Development Division, SAARC*

It is a pleasure for me to represent the SAARC Secretariat at the Regional Conference on Trafficking in Women which is being held under the joint auspices of the ESCAP, ILO and Asian Women's Fund. On this occasion, I have immense pleasure in conveying to you the greetings of the SAARC Secretary General H.E. Naeem U. Hasan and his best wishes for a successful meeting.

The subject of the present meeting is of special interest and relevance to the South Asian Association for Regional Cooperation as social problems of a complex nature, including problems faced by our children and their mothers, have all along been a major source of concern for all the SAARC countries. The importance attached to these issues by the SAARC countries is evident from the social agenda which our Association has developed over the last one decade to address many of these issues. As a part of this agenda, the development and well being of women and children have been identified as one of the principal areas of cooperation by the SAARC Member States from the very inception of SAARC as both these problems are important and inextricably linked. Conscious efforts are being made through numerous SAARC programmes to build a region-wise consensus on social action for achieving the rights of children and the goals set for them within the framework of the survival, development and protection strategy. Similarly, SAARC has been at the forefront to address the common concerns of the women with its commitment to seriously address the issue of gender equality and endeavour to integrate women in the mainstream of our national development efforts. National Plans of Action have been drawn up on women and children complemented by initiatives at the regional level to further accelerate cooperation in this crucial area of concern.

The girl child in particular has always been at the centre of SAARC's many initiatives. The Fourth SAARC Summit declared 1990 as the SAARC Year of the Girl Child in order to ensure a constant attention on problems of the girl child. More significantly, with the same objective, the years 1991-2000 were designated as the SAARC Decade of the Girl Child. A Plan of Action was also drawn up for the Decade and its implementation is constantly being reviewed in a systematic manner. The priority attached to the subject is indicated by the directives issued by successive Summits to further accelerate efforts to strengthen national programmes to address the concerns of the girl child.

Trafficking in Women and Children for Prostitution is a regional as well as a global problem. South Asia has also not been spared of the scourge of this problem. The Member States of SAARC have thus undertaken a number of initiatives both at the national as well as regional level to meet the challenge. In this context, the SAARC Leaders during their Eight Summit, recognizing the serious threat faced by certain groups of Girl Children in Especially Difficult Circumstances (GCEDC), including those orphaned, disabled and exploited, decided that an urgent appraisal be taken by the Council of Ministers on the situation of these children and specific recommendations be presented to the Ninth Summit. The appraisal was conducted at a workshop held on the subject which led to a series of recommendations to address the problems and needs of GCEDC particularly the three worst affected groups i.e. female child labourer, girls who are trafficked within and between countries and girl children out of school. The recommendations emanating from the appraisal cover a broad range of policy and programme related issues concerning GCEDC and call upon Member States to ensure that their national policies, development plans and programmes include specific interventions to address GCEDC issues and concerns. They also call upon the governments to develop and implement comprehensive plans for monitoring progress in addressing the problem.

Efforts have also been taken to combat any form of violence against women including trafficking in

women and children for prostitution in other specific ways. The Ninth Summit was, in this regard, an important milestone as among many other important decisions taken on the occasion, the SAARC Leaders expressed grave concern at the trafficking of women and children within and between countries and pledged to coordinate their efforts and take effective measures to address the problem. They identified a number of additional steps such as strengthening and strictly enforcing existing legislation in the Member Countries including simplification of repatriation procedures for victims of trafficking. The Heads of State or Government accordingly directed the Technical Committee on Women in Development to examine the feasibility of establishing a Regional Convention on Combating the Crime of Trafficking in Women and Children for Prostitution.

I am pleased to inform you that following the Ninth SAARC Summit, important work was done on the proposed Convention and the Member States of SAARC were able to finalize the draft of a Convention on Combating the Crime of Trafficking in Women and Children for Prostitution during their Tenth Summit held in Colombo in July this year. The Convention is expected to be signed during the Eleventh Summit. This is a positive development in the efforts by Member States of SAARC to address a problem which has grave consequences for our societies across the SAARC region. We do realize that it is only the beginning of a long and arduous journey but are committed to the goals and objectives of this Convention.

We naturally share the deep concern at the exploitation by traffickers of women and children from SAARC countries and increasing use of these countries as sending, receiving and transit points. Accordingly, through the SAARC Convention we hope to promote and foster effective regional cooperation to deal with the various aspects of trafficking of women and children for prostitution. The operative part of the Convention elaborates, among others;

- measures to provide mutual legal assistance in respect of investigations, inquiries, trials or other proceedings;
- provisions for extradition or prosecution;
- measures to prevent and interdict trafficking in women and children including bilateral mechanisms to effectively implement the provisions of the Convention as well as promoting awareness through the use of media;
- care, treatment, rehabilitation and repatriation of the victims including through the establishment of protective homes or shelters.

I might note here that the planned SAARC Convention is aimed at strengthening the regional and international arrangements to combat the heinous crime of trafficking in girl children and women. We are aware that a variety of other international instruments already exist which have addressed the problem of trafficking in women and children for prostitution. However, whether or not they are able to bring in the necessary help and assistance to these difficult problems will depend on committed action and cooperation among all countries in the region, all concerned international and regional organizations and members of civil societies. We hope that the present meeting will cover useful ground in promoting such cooperation. Here we must always remember that the problems associated with trafficking is a complex one. I need not highlight how important it is to initiate a comprehensive range of interventions at the level of family, community, state and regions. We also need to promote an interdisciplinary approach that will help networking, sharing and exchange of experiences to support each other's endeavours in this important area.

In this context, I take this opportunity to commend the organizers for their noble initiative which has brought together policy makers, experts, activists and non-governmental organizations who are playing a key role in addressing the problems. There is a wealth of information and experiences and we at the secretariat are grateful to the organizers for giving us the opportunity to benefit from experiences of other organizations and individuals who have been actively working in the field.

We look forward to the discussions and I wish the meeting all success.

### ESCAP – An Overview

#### *Regional and International Mechanisms, Initiatives and Prospects*

##### I . Introduction

Trafficking in women<sup>1</sup> has become an important issue without borders, affecting countries within Asia as well as other parts of the world. Women have been trafficked for prostitution and other forms of sexual exploitation such as sex tourism and pornography, as domestic workers, labourers in sweatshops and on construction sites, as beggars<sup>2</sup> and as brides. The increasing use of new information technologies, in particular, the Internet, presents a new dimension to the problem faced. Poverty and economic deprivation - the gap between rich and poor within countries and between regions has seen women become more subjected to trafficking, lured by their hope of an improvement of their economic circumstances for themselves and their families as ease of international travel has provided the opportunity for temporary migration for work. They are often unwittingly duped, coerced, abducted and in some cases sold into exploitative slave-like conditions, invariably victims of highly organized networks. Women victims in these situations are often without legal protection and without legal rights. Although reporting on the problem has increased, it is unclear whether this is a reflection of a growing problem or whether it is the result of increased attention to the problem at national, regional and international levels<sup>3</sup>. Quantitative estimates of the dimensions of the problem are not available as there are almost no reliable estimates<sup>4</sup> although many countries are beginning to compile information on the phenomenon<sup>5</sup>. Asia is considered the world centre for trafficking in women and girls for sexual exploitation. Whereas international attention to the trafficking of women has increased in recent years, there has however been little success in effectively combating this crime. Resolution 52/98 of 12 December 1997 of the General Assembly emphasized the need for more concerted and sustained national, regional and international action over the alarming levels of trafficking in women in girls. This paper seeks to provide an overview of the regional and international mechanisms that exist, the initiatives adopted to combat the trafficking of women and the prospects ahead.

##### II . The concept of trafficking

The 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (hereafter referred to as the 1949 Convention) defines trafficking within the context of prostitution. By

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<sup>1</sup>The scope of this paper is on the trafficking of women. It is recognized that victims of trafficking also include young women and young men under the age of 18 years. Issues related to the trafficking of children will not be discussed in detail in this paper.

<sup>2</sup> Workshop on the Situation of women and children trafficked from Cambodia to Thailand, co-ordinated by the International Organization for Migration (IOM), Cambodian Women's Development Association (CWDA) and Global Alliance Against Traffic in Women (GAATW), held in Phnom Penh 28 May 1997.

<sup>3</sup> This is the analysis of the International Labour Organization (ILO) after some research into aspects of the problem of trafficking in children in Asia. In its reply to the Secretary-General's request for information, the ILO stated further that there were reasons to believe however, that Asia's tremendous economic growth in recent years may have contributed to the aggravation of the problem and that in the short-term development is likely to increase migration, both legal and illegal, rather than to reduce it. Report of the Secretary-General on the Traffic in women and girls, Official Records of the General Assembly, Fifty-first session A/51/309 at page 6.

<sup>4</sup> Report of the Secretary-General on Traffic in women and girls, Official Records of the General Assembly, Fifty-first session A/51/309 at page 7.

<sup>5</sup> Ibid page 7.

Article 1, States Parties to the 1949 Convention agree to punish any person who, to gratify the passions of another: (1) procures, entices or leads away, for the purpose of prostitution, another person, even with the consent of that person; (2) exploits the prostitution of another person, even with the consent of that person. Since 1949, this definition has been expanded by Article 6 of the Convention of All Forms of Discrimination against Women 1979 (hereafter referred to as CEDAW) to include other forms of exploitation of women such as deception of migrant women and mail-order or false marriages, and the new forms of sexual exploitation such as sex tourism and forced domestic labour recruited from developing countries to developed countries<sup>6</sup>. This view has been further widened to include forced labour, clandestine employment and false adoption by General Assembly Resolution 48/166<sup>7</sup>. It is this expanded view that is reflected in the Beijing Declaration and Platform for Action<sup>8</sup>. Recent new manifestations of exploitative situations of women trafficked in some countries now appears to include women trafficked across borders as beggars<sup>9</sup>.

### **III. International Norms and Standards**

There are two major international instruments that address the issue of trafficking in women.

#### **A. 1949 Convention**

The main international convention on the subject is the 1949 Convention to which only 72 countries are States Parties<sup>10</sup> to the Convention. Ratification of this convention has been difficult largely due to some of its provisions which have been interpreted by some States to indirectly make the practice of prostitution illegal, which runs counter to legislation in some States. This has raised the debate on whether the intention of the Convention seeks to combat forced prostitution or prostitution per se.

The 1949 Convention is very much a document of its time in that it expressly refers to trafficking for the purpose of prostitution and does not include the other forms of traffic in women (as discussed above). One of its main weaknesses lies in that the Convention does not offer legal rights to women who are trafficked to legal assistance and protection, but focuses on punishment of the procurers, persons exploiting prostitution and brothel owners/keepers. Furthermore, the 1949 Convention does not include a monitoring mechanism for compliance by States. Article 21 simply calls upon States to communicate laws and regulations promulgated as well as measures taken in the application of the Convention. Without an appointed committee to supervise implementation, information received have thus far been undertaken by the Working Group on Contemporary Forms of Slavery of the Subcommission on the Prevention of Discrimination and Protection of Minorities of the Commission of Human Rights or have been included under discussions in the context of the implementation of the Economic and Social Council resolution 1983/20<sup>11</sup> on the suppression of the traffic in persons<sup>12</sup>.

#### **B. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

CEDAW, the human rights instrument for women includes a specific provision on trafficking in women in Article 6. CEDAW does have in place a monitoring mechanism in the form of the CEDAW Committee.

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<sup>6</sup> CEDAW Committee General Recommendation 19, Official Records of the General Assembly, Forty-seventh session, Supplement No. 38 (A/47/38), chap. I paras 13-16.

<sup>7</sup> 94<sup>th</sup> plenary meeting, 23 December 1994.

<sup>8</sup> Beijing Platform for Action Strategic Objective D.3, para. 130.

<sup>9</sup> See footnote 1.

<sup>10</sup> As of December 1997. Kyrgyzstan signed in 5 September 1997.

<sup>11</sup> 26 May 1983.

<sup>12</sup> As reported in the Report of the Secretary-General on the Traffic in women and girls, Official Records of the General Assembly, Fifty-first session A/51/309.

Reports of states, including questions relating to Article 6, are considered by the CEDAW Committee, which in turn will forward its recommendations and suggestions to the UN General Assembly through the Economic and Social Council (ECOSOC). Thus far, the issue of trafficking has been addressed in dialogue with States, principally within the context of prostitution and sexual exploitation of women. Work is currently being undertaken by the Commission on the Status of Women on a draft optional protocol to CEDAW which would inter alia, enable individual women to bring cases against States at an international level in addition to strengthening CEDAW's compliance provisions, which are themselves considered to be weak.

#### **C. UN Declaration on the Elimination of Violence against Women (1993)**

This instrument sets out the internationally agreed definition of violence against women as "any acts of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life". The definition as elaborated in Article 2, includes the traffic in women and forced prostitution<sup>13</sup>.

#### **D. Fourth World Conference on Women**

In addition to the above-mentioned international instruments, the United Nations Global Conferences on thematic issues play an important role in international standard setting. The Fourth World Conference on Women 1995 held in Beijing consolidated women's rights in all spheres of their lives. The continuing international attention given to the goals set at the Beijing conference and the monitoring of progress of the advancement of women have served as a catalyst in bringing to closer scrutiny the obligations of states to women's concerns. The Beijing Platform for Action specifically addressed the issue of trafficking in women for prostitution and other forms of commercialized sex, forced marriage and forced labour in Strategic Objective D.3 within the overall broader context of violence against women. The programme of actions to achieve this Strategic Objective calls upon governments of countries of origin, transit and destination to work together with regional and international organizations to eliminate trafficking in women and to assist victims of violence arising from prostitution and trafficking through taking appropriate measures to address the root factors, including external factors that encourage trafficking in women and girls, including strengthening existing legislation to provide better protection of the rights of women and girls and to punishing the perpetrators through both civil and criminal measures. Moreover calls are made to step up cooperation and concerted action of relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking, provide comprehensive programmes to rehabilitate victims of trafficking ranging from employment training, legal assistance and health-care in cooperation with NGOs. The establishment of educational programmes, and the enactment of legislation and policies are also advocated aimed at prevention of sex tourism and trafficking, with emphasis to the protection of young women and children.

#### **IV. International Actions to Combat Trafficking in Women**

There have been various initiatives undertaken by a number of United Nations bodies to address the issue of trafficking in women. The general focus has been concentrated on the adoption of international resolutions and recommendations to reflect the urgent need to take action against the trafficking in women. These need now to be translated into action through the strengthening of efforts at all levels – international, regional and national.

##### **A. Commission on the Status of Women**

As follow-up to Strategic Objective D.3 of the Beijing Platform of Action, the Commission has actively sought to encourage participation of governments to develop bilateral, sub-regional, regional and international agreements to combat all forms of trafficking in women. It has further called upon Governments, non-governmental organizations and the public and private sectors to support partnerships in national action to respond to the needs of victims of trafficking. The sharing of information on all aspects of trafficking in women and girls with a view to facilitate the development of anti-trafficking measures, the adoption of measures to create greater public awareness of the problem, including campaigns aimed to bring about attitudinal change which include promotion of responsible use of new information technologies, such as the Internet and steps to

<sup>13</sup> General Assembly Resolution 48/104.



prevent the misuse of these technologies for the sexual exploitation of women, as well as measures to prevent further exploitation by traffickers in the areas of tourism development and export of labour/migration have been addressed<sup>14</sup>.

## **B. Commission on Human Rights**

The appointment of a Special Rapporteur on Violence against Women by the Commission in 1994<sup>15</sup> has seen the inclusion of the issue of trafficking of women within the Commission's programme to promote and protect the human rights of women and the elimination of violence against women. The issue continues to be a priority concern of the Commission and the mandate of the Special Rapporteur who has been invited to engage in a consultative process with Governments, non-governmental organizations and other interested parties on the increasing global nature of trafficking in women.

The Commission has also directed the Centre for Human Rights to include the issue of traffic in women and girls in its programme of work under its advisory, training and information activities with a view to providing assistance to governments, upon request, towards the institution of preventive measures against trafficking through education and information campaigns<sup>16</sup>.

The Working Group on Contemporary Forms of Slavery, at its most recent twenty-third session has addressed the issue of trafficking in women. Within this context, specific recommendations have been made with regard to the exploitation of the prostitution of persons, trans-border traffic in women and girls for sexual exploitation, the role of corruption in the perpetuation of slavery and slavery-like practices and the misuse of the Internet for the purposes of sexual exploitation<sup>17</sup>.

Since 1996 the Subcommission on the Prevention of Discrimination and Protection of Minorities of the Working Group on Contemporary Forms of Slavery has had approved a Programme of Action for the Prevention of traffic in persons and the exploitation of others which programme seeks to strengthen international cooperation and the adoption of concerted measures in the areas of information and education, legal measures and law enforcement, rehabilitation and reintegration and international co-ordination<sup>18</sup>. The programme highlights the need for the development of a political and social will to combat the problem and its new forms. It has been recommended that co-ordination of the programme be undertaken by the Centre for Human Rights in cooperation with the United Nations secretariat, in particular the Division for the Advancement of Women, the CEDAW Committee, the Division on Crime Prevention and Criminal Justice and concerned intergovernmental agencies such as the High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the ILO and World Health Organization (WHO). States have been encouraged to collaborate with non-governmental organizations to now develop national plans of action in line with the 1996 Programme for Action<sup>19</sup>.

## **C. Commission on Crime Prevention and Criminal Justice**

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<sup>14</sup> Forty-second session, 2-13 March 1998.

<sup>15</sup> Resolution 1994/45 Commission of Human Rights. The special Rapporteur on violence against women has recently addressed the issue of trafficking and forced prostitution in Poland (mission 24 May - 1 June 1997), E/CN.3/1997/47/Add.1.

<sup>16</sup> Commission on Human Rights Resolution 1997/19, Traffic in women and girls, 11 April 1997 (56<sup>th</sup> meeting).

<sup>17</sup> E/CN.4/Sub.2/1998/14.

<sup>18</sup> Programme for Action for the Prevention of Traffic in Persons and the Exploitation of the Prostitution of Others, E/CN.3/Sub.2/1995/28/Add.1.

<sup>19</sup> E/CN.4/Sub.2/1998/L.3.



The Commission has reviewed the trends in the smuggling of illegal migrants in different parts of the world. The trafficking of women has been considered within the overall context of violence against migrants. Work undertaken by the Commission on the formulation of model strategies and practical measures on the elimination of violence in the field of crime prevention and criminal justice was adopted by the United Nations General Assembly<sup>20</sup> in 1997. These represent an internationally agreed upon set of strategies and measures to upgrade and ensure "fair treatment" response on the part of criminal justice systems to women victims of all forms of violence and the additional areas of victim support and assistance, health and social services, training and research and evaluation.

The numerous activities of these various commissions, which have similar yet distinct mandates, may give the appearance of being perhaps dis-jointed in their independent efforts to address the issue of trafficking in women. However, it is important to consider the overall cumulative effect of these mechanisms and activities, which when taken together do serve as an important lever by which to re-inforce pressure on states to comply with their international obligations as well as to lend support in national efforts. Given the importance attached to trafficking in women and children in recent years by the international community, states are increasingly being called to account before various international fora and to register their international commitment to international policy on trafficking time and again.

#### **D. Specialized Agencies and other entities of the United Nations system**

The programmes and related activities of the specialized agencies and other entities of the United Nations system play an important role to assist and/or to bring about change in conditions at national and regional levels to enable the translation of international commitments into action, through the support of advisory services and technical support. It should come as no surprise that many of the activities of these agencies and entities fall within the Asia region, in particular. Some of these activities include:

Within the work of the International Labour Organization's International Programme on the elimination of child labour (IPEC), country level programmes for the period 1997-98 included the implementation at local level of an education programme entitled the Daughter's Education Programme which aimed to educate young women and girls in northern Thailand against the dangers of falling victim to trafficking.

In August 1998 the International Labour Organization (ILO) published a study entitled 'The Sex Sector: the economic and social bases of prostitution in South East Asia'. Although it is not a study on the traffic in women and girls, it does address the issue of recruitment of women and children into the sex sector and includes country studies from Indonesia, Malaysia, the Philippines and Thailand.

A United Nations task-force for inter-agency coordination, composed of the Economic Social Commission for Asia and the Pacific (ESCAP), the ILO, the United Nations Development Fund (UNDP), the United Nations Population Fund (UNFPA), the United Nations Fund for Children (UNICEF), the United Nations Development Fund for Women (UNIFEM) and the United Nations International Drug Control Programme (UNDCP) has been established to address trafficking in women in the Asia region.

The issue of trafficking in women and girls is also included in UNIFEM's Trust Fund in Support of Actions to Eliminate Violence Against Women.

A United Nations Development Fund project for sub-regional programmes to address trafficking in women in countries in the Mekong region is in the pipeline.

#### **V. Regional Mechanisms and Initiatives to combat trafficking in women**

##### **A. Specialized Agencies**

Reference is made to section D above.

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<sup>20</sup> Resolution 52/86 on Crime Prevention and Criminal Justice Measures to eliminate violence against women. See Annex thereto.

## **B. Non-governmental Organizations**

The commitment of non-governmental organizations working on trafficking in women within this region can not be underscored enough. Non-governmental organizations working either alone or sometimes in collaboration, with the technical support of the United Nations system and the goodwill and financial assistance of the international community and sometimes without such assistance, have been instrumental in taking action to address the issue of trafficking in women at national and sub-regional levels - to create greater public awareness of the real dangers associated with trafficking and the exploitation of the human rights of women victims. One could cite an endless list of activities undertaken by NGOs partners. In many cases, the work of NGOs has become an important part of national plans on trafficking or even law reform.

In terms of regional activities, to date however, it is only in South Asia, that the efforts of such groups have given rise to a draft sub-regional convention on trafficking in women which has the endorsement of governments. The draft South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is scheduled to be signed by SAARC member states<sup>21</sup> in 1999. It is the culmination of the work of women NGOs<sup>22</sup> to bring to the attention of policy makers the alarming dimensions of trafficking in women and girls of the countries of the SAARC region - intra country and cross-border. The intent of this draft convention is to promote much needed cooperation amongst SAARC member states to effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are countries of origin, transit and destination. The positive response by SAARC states demonstrates that there is political readiness to realize joint action to suppress trafficking in the sub-region. It further represents the first and a major step forward on an important social concern for South Asia and the region as a whole.

## **VI. Prospects ahead**

Trafficking in women is widespread across the region, particularly in the sub-regions in Asia (North, South East, Central), where these countries are countries of origin, transit and destination. The increasing use of new information technologies for the purposes of prostitution, pornography, sex tourism and Internet-order brides are likely to further compound an already difficult problem of far-reaching (although yet unquantifiable) proportions. Where the region's countries are being crippled by economic turmoil following the Asian financial crisis and its longer-lasting effects, based on anecdotal evidence emerging it has been predicted that the trafficking in women for sexual exploitation will only escalate further, spilling across borders. Obstacles, such as corruption among law enforcement officials (police, immigration) pose the biggest problem given the deepening poverty of many countries across the region. Vested economic interests in the lucrative trade of trafficking in women by those involved, which often includes high level state participation, and the kick-backs to be offered to law enforcement officials to turn a blind eye to the continuation of illegal activities need to be seriously addressed. In cash-strapped Asia resources will be already scarce to support national efforts let alone regional ones.

It is widely hoped that the SAARC model can be replicated region-wide. The experiences of the SAARC countries as well the extra-regional experiences such as those actors involved in the drafting of the Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation in April 1997 need to be carefully reviewed to identify the common dominators in the development of an inter-active dialogue with policy-makers to combat trafficking on a regional scale. Recalling Resolution 52/98 of the General Assembly which emphasized the need for concerted and sustained action nationally, regionally and internationally, let us now move forward and take action.

Here are but a few suggestions which this meeting may wish to consider and formulate actions:

<sup>21</sup> SAARC member states include Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

<sup>22</sup> The women's groups were the Asian Women's Human Rights Council (AWHRC), Oxfam-Nepal, UBINIG Bangladesh, Sangram India and Sanlaap India.

- Examine how current approaches, at the national, sub-regional, regional and international levels to the issue of trafficking can be more effective. How can things be done differently? Explore the possibilities of how to forge closer linkages in the work of Governments and non-governmental organizations. Examine the role that could be played by the private sector.
- Search for the priorities for the region in effectively combating trafficking. Should the focus be on crime prevention – punishing the traffickers first? What does this mean? In the region where poverty is at its most critical, this requires consideration of long-term planning – if trafficking is to be eliminated, social and economic policies will need to be constructed to ensure that women are given equal access to development.
- Search for effective actions that will tackle vested interests.
- Seek out ways to effectively employ existing international fora mentioned in this paper (without calling for the drafting of new international instruments). And at the same time explore other fora that can be an effective platform to galvanize political and social goodwill and most importantly accountability. e.g. ASEAN, ASEM.
- Recalling the reaffirmation at the Fourth World Conference on Women in Beijing in 1995, that women's rights are human rights, examine the possibilities for adoption of a rights-based approach in dealing with trafficking. We have CEDAW. Let us apply it to the issue of trafficking.

#### **INTERNATIONAL NORMS AND STANDARDS**

\*1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of others

\*1979 Convention on the Elimination of All forms of Discrimination against Women

- UN Declaration on the Elimination of Violence against Women 1993
- Fourth World Conference on Women 1995 (Beijing)

#### **INTERNATIONAL ACTIONS TO COMBAT TRAFFICKING IN WOMEN**

\*A. Commission on the Status of Women

\*B. Commission on Human Rights

\*C. Commission on Crime Prevention and Criminal Justice

#### **REGIONAL MECHANISMS AND INITIATIVES TO COMBAT TRAFFICKING IN WOMEN**

\*Programmes and related activities of Specialized Agencies and other entities of the United Nations System

- ILO/IPEC
- UN task force on trafficking in women in Asia region
- UN development Fund
- UNIFEM

\*Non-Governmental Organizations

South Asian Association for Regional Cooperation (SAARC) draft Convention on Preventing and Combating Trafficking in Women and Children

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This paper has been prepared and read by Jocelyn Ng, Social Affairs Officer, Women in Development Section, Social Development Division, ESCAP.

## **Panel Discussion - Role of NGOs**

### **Global Alliance Against Trafficking in Women (GAATW)**

**Ms. Siriporn Skrobanek**

*Director, GAATW, Bangkok*

#### **International Trafficking of Women**

I feel honoured to be here with you and to share information on the situation of trafficking in women particularly in Asia and the Pacific.

I work as international coordinator of the Global Alliance Against Women which is an international network that was formed in 1994 in Thailand.

The aim of GAATW is not to stop the migration of women but to ensure that human rights abuses of women concerned are taken into consideration by authorities and agencies involved. Our strategy is to promote the involvement of affected women in the fight for their rights so that the work done addresses the real issues and does not aggravate the vulnerable situation of women, particularly those in prostitution.

GAATW's activities include the training in doing research on this issue and in providing assistance to women and child victims of international trafficking. We also organize human rights training in order to familiarize activists with the international human rights instruments and mechanisms.

#### **Trafficking in women as a serious crime**

Trafficking in women is considered a serious crime and a form of violence against women. In

the Asia and Pacific region in particular, this is a growing phenomenon, and there are both intra-regional and inter-regional routes of trafficking. Thus, a single country in Asia can be a country of origin, transit, and destination of women. There are also growing numbers of women from non-Asian countries involved, particularly from Latin America.

The pattern of trafficking has also changed from the two-step to one-step pattern. The former refers to the recruitment of women who migrate from their hometown to work in big cities, often in the sex industry. The latter refers to the direct recruitment of innocent young women to work abroad under false promises, often forced into prostitution or other kinds of forced labour. Victims of the one-step pattern typically are women from different ethnic groups who very often do not have a nationality of their own and many of these women become stateless persons when abroad, kept in detention centres in the countries of destination.

Trafficking in women is an issue of high complexity, interwoven with other phenomena such as international migration, labour export, sex tourism and prostitution. Poverty and unemployment are usually cited as key factors contributing to the growth of trafficking. Development strategies are also a source of aggravation pushing women out of their homeland rendering them prone to trafficking. Involvement of officials in trafficking is a well known and widely reported fact. Internal and international armed conflicts also have a devastating impact on the life of women. In such situations, they fall easily subject to gender-based violence and other forms of sexual exploitation.

Due to the nature of their work, basic human rights of prostitutes are violated in many ways. Based on traditional moral views and the growing of racism, migrant women who are trafficked for the purpose of prostitution are doubly discriminated. Prostitution and trafficking of women, however, are inter-related problems but not the same issues. Each requires different strategy of tackling. The feminization of poverty in developing countries and in countries in transition such as in Eastern Europe has resulted in a growing number of women working in prostitution. They are coerced by political and economic circumstances into the sex industry. Many of them are in fact their own agents. Criminalisation of prostitution does not stop the trade in women nor deter women from doing sex work as it is often the most viable option for many in the struggle to make a living.

Generally, state laws on prostitution contribute to women's powerlessness. They are often used as repressive tools by both the law enforcement machinery and traffickers to abuse and exploit women in prostitution. Questions derive whether it is more useful to apply the law to improve their working conditions or to seek to eliminate the whole sex industry. One view – which is supported by GAATW – pertains that prostitution per se is not violence against women. Therefore, the elements that need fighting are force and slavery-like practices. Where prostitution is forced by deception, coercion or violence, the law must be enforced against recruiters, brokers, agents and employers.

### **Redefining Trafficking in Women**

One crucial problem in addressing and tackling the issue of trafficking in women is the lack of a comprehensive and coherent definition confined to one form of trafficking for the purpose of prostitution. GAATW has been working on a new definition which combines the process of recruitment and the situation of work in the destination country. The core elements of the new definition are violence, deception and abusive practices in recruitment, transportation and in working and living conditions. To this end, GAATW's working definition goes as follows:

#### ***Trafficking in women***

*All acts involved in the recruitment and/or transportation of a woman within and across national borders for work or services by means of violence or threat of violence, abuse of*

*authority or dominant position, debt-bondage, deception or other forms of coercion.*

***Forced labour and slavery-like practices***

*The extraction of work or services from any woman or the appropriation of the legal identity and/or physical person of any woman by means of violence and threat of violence, abuse of authority or dominant position, debt-bondage, deception or other forms of coercion.*

The two part definition recognized the reality that women usually consent to migrate within or outside their country for various purposes, including that of prostitution. However, they do not agree to work or to live in slavery-like conditions. One of the major concerns, thus, is not fighting against migration (legal or illegal) nor prostitution per se, but to put focus on stopping abusive recruitment and abusive practices against women.

**Further recommendations**

GAATW also proposes the development of international standard rules for the humanitarian treatment of trafficked persons. Basic principles on the human rights should be used as a guide for governmental action in countries of origin, transit and destination. These rules include, among others, the following:

- right to freedom from persecution or harassment by those in position of authority
- access to competent translators during legal proceedings
- access to legal assistance and legal representation during criminal or other proceedings
- access to legal possibilities to restitution including compensation
- provision to enable women to press criminal charges and/or take civil action against their offenders, such as temporary stay permit during criminal and/or civil proceedings and adequate protection as witnesses
- legal permission to stay if a return to one's home country is unsafe or if so desired, assistance to return
- protection against reprisals either from the side of violaters or from the side of the authorities.

## **International Movement against all forms of Discrimination and Racism**

Ms. Seiko Hanochi

### *The Growth of the Global Sex Industry and Efforts to Stop it*

#### **Introduction**

The trafficking and prostitution situation reached an alarming level, and the growth of the global sex industry needs to be seen in the context of the global economy. In the specific case of Japan, this became a problem since the 1980s along with the emergence of Japan's so-called "bubble economy". As a result, not only new forms of trafficking have emerged, but also new possibilities for NGOs to develop new strategies in cooperation with the government of Japan and of the countries of origin, as well as with the UN human rights mechanisms. Some efforts have already developed in Japan, but an international legal framework has to be created if globalization of trafficking and sex industries is to be fought effectively.

#### **The state of trafficking and anti-trafficking fight after WWII**

The first international conventions ratified by Japan when it was admitted into the UN in 1956 was the 1949 Convention on the Suppression of Trafficking in Women and of the Exploitation of the Prostitution of Others. A new law was enacted in the same year in order to implement the Convention which is called the "Baishun-Boushi-Ho" (Law to Prevent Prostitution). However, a closer look at this law easily shows that it was not a true victory the modernist and feminist movement had fought for, since of the major demand by the movement – i.e. the demand that male customers be penalized – was ignored by the lawmakers. As a result, only those who employ, incite, facilitate or exploit the prostitution of others are penalized. Moreover, this law was full of loopholes permitting the development of a variety of new forms of prostitution, such as "Turkish Baths" which were renamed "Soaplands" after a complaint made by the Turkish Government. In this way, the rapid growth of Japan's economy was accompanied by the emergence of a flourishing sex industry under the disguise of places such as massage parlours where prostitution was unofficially practiced as an expression of individual "free love" between women employees and their customers.

Another result of Japan's growing economy and the development of the leisure industry was a rapid growth in tourism. The signature of the Japan-Korea Treaty of Friendship in 1965, following the liberalization of tourism in Japan in 1964, prepared the ground for sex tourism into South Korea. It has meanwhile expanded into other South-East Asian countries, notably the Philippines and Thailand. This shows a new division of labour in the world where Japan, which had moved into the core of the world system, is now exploiting economically and sexually other parts of Asia which are still located at the periphery.

#### **The Sex Industry in Japan and the Victims**

According to the statistics of 1991, the Japanese sex industries had an income comparable to its military budget amounting to 1% of its GNP. Illegal prostitution is not included in this official statistics and is estimated to amount to about 500,000,000,000 yen. This means that in total the Japanese sex industries have achieved an income of approximately three billion yen.

The number of Asian women and girls working in the Japanese sex industries in 1997 is estimated to be 80,000. There exists a racist hierarchy among the sex industry with the top being independent and well-paid prostitutes who are Japanese or Western women, followed by bonded slaves of whom the best paid are white women from Eastern Europe, and at the bottom being women from South-East Asia.

The Office of the Prime Minister of Japan has published a report in 1997 on the State of the Counter-Measures against Prostitution. It reports the existence of women and girls under bondage who are forced to work in prostitution under the control of international trafficking networks in cooperation with local Yakuza (mafia gangs). In 1996, bosses of the Yakuza gangs of central Japan distributed among various snack bars of the region about 200 Thai girls whose passports were confiscated and who were forced into prostitution. The routes of trafficking differ from country to country. In the case of Thai victims trafficked to Japan, their migration usually involves four stages. Firstly, there are agents who contact the victims at their home village and convince them to work in Japan. At this stage, the recruitment reaches out into neighbouring countries, including Burma, Vietnam, Cambodia and China where often indigenous women are involved. After their recruitment, there are then agents who bring them from their home country to Japan. Thirdly, there are those who meet them at the airport in Japan and sell them to the sex industry. Finally, there are the owners of the sex industry institutions. The agents at each stage get their share and add to the debt billed to the victims.

The police organizes from time to time round-ups to arrest the violators of the law to prevent prostitution. In most cases, the Yakuza and the owners of snack bars and clubs escape, leaving the women and girls who are treated by the police as criminals. Even if their prostituting activities cannot be proved, they are nonetheless considered criminals being illegal migrants in the eyes of the Immigration Law.

### **IMADR's Activities**

In Japan, IMADR started activities linking the feminist movements in sending and receiving countries in Asia in an attempt to develop regional and international cooperation to empower the victims of trafficking. It took up the issue as a case of multiple discrimination combining discrimination against women in prostitution, against "illegal" migrant workers, against non-Japanese Asians, against indigenous peoples, and against women. This movement organized two symposia for the empowerment of the victims of trafficking in Asia. The participating NGOs and officials agreed that besides concrete measures to stop trafficking, there was a need for the state to pass laws which decriminalize the trafficked women and to provide training for officials to respect their rights. Also, there is a need to change attitudes within civil society (schools, media) in order to remove the obstacles to the empowerment of the victims and survivors of trafficking. These tasks were found to be best achieved within the context of an integrated action against all forms of gender violence.

On the government level, a follow-up of the Beijing Conference was the adoption of the "Plan 2000" which proposes an integrated approach to the problems of prostitution. This indicates that the government is tackling the whole issue of trafficking from an incorrect angle. Rather than decriminalizing the victims of trafficking, it protects "normal" women from falling into prostitution.

There have, however, been new developments on the international stage which are expected to change this situation. The Stockholm Conference on Child Prostitution of 1997 has forced the Japanese Government to reach a common agreement on the basis that the present lack of legislation against child trafficking and prostitution is a national shame.

With regard to further action, it is IMADR's belief that domestic legislation is indispensable but not sufficient to counteract the broad range of interconnected operations the global sex industries have developed to recruit and trafficked women into Japan. Bilateral agreements between Japan and the countries of origin need to be negotiated. Regional and international legislation and plans of action must be developed in order to cope successfully with the global sex industries. It is also important to develop programmes to support survivors to reintegrate into their home communities. Furthermore, it is crucial for the guarantee of the rights and dignity of the victims to develop training courses for police officers, immigration and



government officials, as well as concerned private citizens, so that the victims cease to be treated as criminals. To this end, IMADR has published a manual to facilitate such training sessions.



## **CRISIS Centre "SABR"**

Ms. Mavluda Shirinova

*Director, "SABR"*

Uzbekistan is situated in Central Asia with a population of 23 million, of whom more than half are women. Sixty-one percent of women reside in rural areas. The political structure is that of a presidential republic. Uzbekistan is member of the UN and has ratified the Fundamental Document for the Rights of Women. Legal status of women is higher in Uzbekistan than in other Asian countries. Any discrimination is prohibited by the Constitution. Marriage and family, fatherhood and motherhood are protected by the State. The Labour Law protects women from working in harmful environment, and in accordance with the social security laws, women have right to get social payments as a special social group.

Since the 1940s, women have been elected heads of kolkhozs (collective farms), but still little improvement has been made regarding the filling of top positions in politics and the economy. In 1996, less than 11% of seats in government were occupied by women. Representation among top officials is also insignificant. At present, the total number of university students comprises 158 thousand persons, of whom 36 thousand are women and the number is decreasing. This trend is primarily connected with traditional way of thinking and the revival of the patriarchal system which is particularly strong in rural areas. Girls are brought up to become good mothers and wives. Also, there are certain professions considered as typical female ones, such as in health, education (mainly at elementary level), small trade and small and medium-sized businesses. As a result of early marriages and high birthrates in rural areas, women are mainly busy with household activities and child raising.

Uzbekistan has no institute performing active labour market policy as in the ex-Soviet Union. After gaining independence and opening the borders for the first time in the country's recent history, women are being faced with the capitalist way of life. In search of money women have started going abroad and along with the high achievements of modern civilisation started the simultaneous absorption of unattractive features such as prostitution. Labour markets are becoming more segmented which leads many women to prostitution and other forms of earning easy money. Either by free will or forced, they get involved in the unorganised prostitution business. Unemployment, difficulties in receiving loans for businesses, lack of education and the general absence of resources are aspects which force women to sell their bodies. The State Criminal Code does not contain a special penal law for female body trade. But in Unit VI of the Criminal Code covering crimes against freedom, honour and dignity, there is a regulation providing a special penalty for hiring people with the purpose of sexual or other exploitation by way of deception (Art. 135).

There are special norms in the Criminal Code protecting children from all forms of sexual exploitation and sexual perversion (Art. 128; Art. 131; Art. 130). Despite the fact that statistics identified only very small numbers of trafficking cases, the Uzbek government has taken definite preventative measures for such bases. Lawsuits on women's export and body trade have been given much publicity by the media, and preventative work is being done among the population and by the mass media.

According to information provided by the Samarkand Regional Department of Internal Affairs, between 1997 and 1998 five people were sued in connection with women's recruitment for the purpose of sexual exploitation. Forty-two citizens were sued for involvement in procuring. 204 professional prostitutes are registered and 526 further women are estimated as being involved on an irregular basis as well as eight homosexuals. In actual fact, however, these numbers are

suggested as being higher.

It is evident that the body trade is caused to a great extent by economic factors on the one hand and is encouraged by those who gain benefit from it on the other hand. In the process of preparation for this conference, we tried to find and expose the reasons for this phenomenon in our country, and I would like to share with you the results of our research.

- The domestic mentality of some Uzbek women and the decline of their economic situation causes them to sell their bodies to make a living. The institution of the so-called "second wife" among prosperous men in large cities and towns has become popular.
- Transition to the principles of democracy and open borders allow women to go abroad to sell their bodies. Some of them do it at their free will. The high pace of development and transition to modern forms of a civilized democratic society cannot go smoothly. New hard conditions destroy women's hopes for fast improvement of their economic situation.

We believe that high levels of education of the majority of Uzbek women could work against unacceptable forms of women's exploitation to grow and develop. A whole set of educational measures is therefore provided for the whole population and for separate groups as well. For example, a range of current social programmes aimed at women at high risk of getting involved in prostitution, specialized centres, conducting consulting services for girls and young women, supporting them in job hunting, various health centres etc. have been organized.

To summarize, I would like to stress that from the point of view of the market economy, trade in women for the purpose of sexual exploitation will exist as long as developed countries maintain the commercial demand for cheap sexual gratification either in the form of services provided inside the country or in the form of sex tourism. But prostitution results in bad consequences - not only for the people involved in it, but also for society at large.

As for further action, we would therefore like to make the following recommendations:

1. Consolidation of governmental and non-governmental structures in order to address the problem of trafficking and trade of women for the purpose of prostitution.
2. Opening of more crisis centres and shelters for the trafficked victims.
3. Establishment of preventative health care centres for HIV/AIDS and other venereal diseases and for the holding of workshops. Training for HIV/AIDS volunteer workers for the dissemination of information on prevention of such diseases.

: article 6 (?) special part on hiring people for???? code to protect children from sexual exploitation? (Article 1, 28)? 1, 31? 1, 30 sale of pornography to persons under 21. Trafficking in women, government has taken measure to prevent. In 1992, at all levels of international affairs agencies were organized. Five people have been charged for recruitment and trafficking of women as part of sexual exploitation (when?). 42 citizens have been called to criminal courts for establishing prostitution. Numbers of prostitutes? These might be higher in reality. Body trade because of economic reasons and by those who gain benefit from this business. Research result: mentality of Uzbek women and their economic situation leads women to sell their bodies; institution of "second wives" for rich men in big cities; no problem in rural areas; opening of borders leads women to go abroad to sell their bodies; these women a bit naïve, but some do it by their own free will. Transition to democracy slow. Easy accessible ways of making money lead to social evils as prostitution. Whole set of educational matters provided (by whom?). Range of social programmes. Groups. Market economy: women trade in developed countries until they maintain their ? Women seen as sexual object which can be bought.

## **Asian Network for Women and International Migration**

Dr. Hameeda Hossain

### **I. CONCERN RELATING TO TRAFFICKING**

1. First legal reference to trafficking and kidnapping in the Penal Code enacted by the British in 1860. This referred to sale and purchase for prostitution but was not concerned with violations of international frontiers.
2. 130 years later, trafficking has spread globally, and concern with trafficking is expressed globally.
3. National governments are particularly concerned with two aspects:
  - border controls, which restrict an individual's right to freedom of movement;
  - sex work, which focuses concern on HIV/AIDS.
4. We need to understand the reasons why women and children can be induced or forced to move from their place; and the process of movement known as trafficking which violates their integrity, their freedom of choice and leads to violence. We need to eliminate/reduce the causes of trafficking and not merely limit ourselves to punitive strategies.

### **II. COMPELLING FACTORS IN SOUTH ASIA**

1. Economic Vulnerability
  - The pull factors are exercised by the demand for cheap, vulnerable labour to reduce the costs of production, to service the sex industry and for the service sector because local labour is not available or willing.  
e.g. Bangladesh women work in carpet weaving, fish drying in Karachi, in construction or home based production in India, as prostitutes or by way of being forced into marriage.
  - The push factor results from survival strategies of poverty and the urge for mobility, leading to movement from villages to towns and across borders.
  - South Asia is one of the poorest regions. Causes of poverty are more than historical. Lack of investment in agriculture, low development has led to landlessness and food insecurity. In addition, most of the SAARC governments allocate almost half or over half of their annual budgets on defence and other wasteful expenditures which do not prioritize the eradication of poverty.
  - Women's share in poverty is even more pronounced. Their control over land and other means of production is considerably lower than that of men. Structural adjustments followed by economic liberalization has eroded the village production base. Families are increasingly dependent upon women's labour but few opportunities are opening up. Although credit schemes have been opened for women, they do not invest in production but only in petty trade and commerce. Many of them have become wage workers, unpaid family workers or domestic workers.
2. Social and Political Vulnerability
  - Political changes in South Asia have created new frontiers against women's mobility. Crossing a river suddenly leads to another country even though 50 years ago it was one.
  - Political systems also leads to migration such as the Rohingyas in Bangladesh who become targets of trafficking to Pakistan.
  - Discriminatory laws and practices such as desertion, polygamy, divorce, absence of post divorce maintenance and dowry has undermined women's social status and is a

cause for violence against women.

--Registration of births and marriages is not enforced widely and parents tend to marry off their underaged daughters because of insecurity. They are often willing to marry them off to persons who do not need dowry, but without registration there is no way to check if the man is already married.

--The sanction of polygamy under the existing personal laws in South Asia particularly in Bangladesh, India and Pakistan allows for multiple marriages by men. The requirement to obtain the first wife's permission before remarriage is often ignored and the wife is deserted or divorced, in which case she returns to her natal home and is seen as a burden on her family.

3. The recent ban (July 1998) on migration of women for domestic work from Bangladesh will lead to clandestine movement and will encourage trafficking.

### **III. INCIDENCES OF TRAFFICKING**

1. Women are trafficked from Bangladesh to India and Pakistan into brothels, forced marriages, in low cost manufacturing, construction and domestic work. Some of them are taken to the Middle East.
2. Young girls and boys are taken for sex work, begging and smuggling.
3. Male children are taken to the Middle East for camel races.
4. It is reported that children and men are also taken for organ transplants but we have no public information of this.
5. In 1997, 832 victims of trafficking were rescued, of which 615 were children. From June to Sept 1998 228 were rescued and 39 traffickers were arrested. In October 139 children and women were rescued, at least 50 from hotels in the capital. Children were rescued in India in transit for camel racing in the Middle East.

### **IV. AGENCY**

1. Trafficking networks are widespread, but the primary agent is usually a relative or fellow villager. Woman agents often pose as a child's mother. They are sometimes backed by a local influential person.
2. Trafficking routes change rapidly and the border is only the exit point; trafficking takes place in the most economically depressed areas.
3. Travel terminals such as bus stops, steamer stations, train stations are places where women and young children are kidnapped or lured.
4. Hotels are now being used to sell children. Three hotels were recently discovered in Dhaka.

### **V. STRATEGIES OF WOMEN'S GROUPS/NGOs**

1. Awareness of rights, perils of going with strangers, registration of marriage in schools, colleges, community, women's groups.
2. Sensitization of police and border controls. The former can arrest anyone without assigning reason under section 54 of the criminal procedure code. Women and young children are kept in jails in safe custody.
3. Help to victim with repatriation by approaching administration, judicial system, embassy etc. and linking with counterpart organisations in India, Pakistan. Locating family.
4. Providing shelter on repatriation.
5. Legal aid for women in safe custody, obtaining bail.
6. Counseling - this expertise is not readily available in Bangladesh.

7. Lobbying nationally and regionally for change in personal laws, support to victims and changes in criminal procedures.

## **VI. GOVERNMENT INITIATIVES**

1. Punitive laws: 1995 Offenses relating to Repression against Women and Children increased sentence to 14 years bailable. Government contemplating capital punishment, but severity of punishment prevents conviction without adequate evidence.
2. Ban on migration likely to encourage trafficking.
3. Government's ratification of CEDAW (two reservations) and adoption of Beijing Plan of Action. Included into fifth five year plan, but policies yet to be implemented and CEDAW provisions yet to be included into domestic legislation.
4. Home Ministry Cell to monitor violence against women including trafficking
  - monthly monitoring reports
  - activate border controls
  - special police squads

## **VII. REGIONAL LOBBYING**

1. Lobbying by women's groups since 1986, led to the inclusion of trafficking into agenda of SAARC Women's Ministers meeting in 1994.
2. SAARC Expert Group meeting and Technical Committee in 1998 considered draft agenda of Convention.
3. Included in Standing Committee Agenda in July 1998
  - To be submitted to the 10<sup>th</sup> SAARC Summit
4. Critique of Convention - too limiting since it mentions trafficking for prostitution which emphasises prostitution rather than trafficking and ignores use of children for camel racing, begging etc.
  - Repatriation could lead to forced deportation.

## **VIII. FUTURE STRATEGIES**

Need for more comprehensive strategies at international regional and national level.

1. International
  - Set up international complaints procedure through optional protocol or call for annual report by Rapporteur on Violence against Women
  - Urge member states to ratify 1949 convention, CEDAW and to withdraw reservations.
  - Formulate Standard Minimum Rules for the support of Victims of Trafficking.
  - Monitor and report incidents of trafficking to CSW or Human Rights Commission.
2. Regional
  - Re examine SAARC Convention to make it more relevant to the experience of women and children in the region and to their needs.
  - Set up task force to examine the impact of policies on trafficking of women and children.
  - Appoint a regional rapporteur to document and monitor trafficking violence.
  - Country report on trafficking to be prepared in collaboration with women's groups or NGOs.
  - Bilateral agreements for contractual labour through issuance of work permits.
  - Reciprocal action against agents of trafficking.
  - Repatriation to be determined by victim's choice.
  - Sensitize the judiciary and law enforcement personnel.
  - Promote equality provisions.

3. National

- Ensure gender justice through reform of personal laws.
- Withdraw reservations to CEDAW.
- Ratify 1949 convention and consider amendments.
- Promote policies and development which ensures food security, employment of women.
- Improve investigative procedures.
- Education and media programs to create public awareness.
- Make local government representatives responsible for monitoring trafficking.
- Sensitize border police and judiciary.
- Legal aid, counseling and shelters for victims of trafficking and trauma.
- Information on risks of trafficking to be included in all NGO education programs, school education etc.
- Micro-credit agencies to monitor the uses of credit, to expand credit to areas known for trafficking.
- Wider awareness of rights and risks of trafficking.



## **SANLAAP, India**

**Mr. Anindit Roy Chowdhury**

*Assistant Coordinator, SANLAAP, Calcutta*

### **Introduction**

Globalization is a magic word which is the driving force of the world economy keeping very little space for individual states.

The growth of the cash crop syndrome forces the state to stop investing in other products which are more nutritional and of higher value to the local community. Countries like Bangladesh, India, Nepal and others push their agrarian sector into a corner which results in genuine poverty. This makes these states socio-culturally even more vulnerable. In addition, already existing gender imbalances in these states as well as a historically deep-rooted patriarchal system create a new commodity for the world market: women and children.

South Asian countries are faced with certain problems, usually in a combination of the following factors:

- crisis of basic livelihood, food and income insecurity
- unemployment
- environmental degradation
- class/caste/racial and gender violence
- inadequacy and reprivatisation of public services essential to human reproduction

### **The Sex Trade in Calcutta**

The sex trade is as old as the city of Calcutta, namely 300 years. As the city expanded, new areas have been added to the list of red light areas [RLA] and prostitution has become a thriving trade in the city and the state. The best age of selling age of a person into prostitution is when she is a child, and it is mostly girls who become prostitutes, though there are cases of male prostitutes too.

In 1992, the All India Institute of Hygiene and Public Health conducted a survey and estimates 18 RLAs, 405 premises used, 10,241 fixed prostitutes and 3585 flying prostitutes – hence, a total of 13,826 prostitutes.

None of the studies categorically mentions the number of children working in prostitution.

With SANLAAP being particularly active in the area of child prostitution, the focus will be on this particular type. There is no reliable estimate of child prostitutes in the city of Calcutta as there is a lot of secrecy about it. As recently as August 1997, Shyamali Sarkar of Sonagachi, herself a former prostitute, was brutally murdered by a hired local for being suspected of leaking information about the trade to the police.

SANLAAP activists have been told by a number of child prostitutes that they are urged to overstate their age, otherwise they are beaten mercilessly. They have to state that they are over 18 years old and that they came by their free will.

According a study undertaken in 1992, about 48% of the currently practicing prostitutes joined the profession when they were much below the age of 18. According to the field workers, the proportion of child prostitutes was 15%, but it has gone up in recent times. Current estimates vary between 15% and 40%.



Children are often trafficked from villages in West Bengal to cities by female brothel owners who came from the same village. But they are also trafficked from Bangladesh and Nepal, but are forced to conceal their real nationality.

Lack of education and poor economic status enhances their vulnerability as it renders it difficult for them to find any skilled job. When in dire situations, they have very little option but to migrate to cities where they fall easily into the arms of traffickers. It also has to be noted that many of these girls are tricked into marriages or promised marriage, are taken away from their villages for that purpose and then forced into prostitution. After they realize what they are in for, it is difficult to run away, in particular when abroad. Without passports or legal papers and no money, they become stateless persons who cannot return to their home country easily.

### **Trafficking**

It is widely acknowledged that trafficking for sale of children for different purposes such as beggary, prostitution, camel races or organ transplantation, have aggravated in South Asian countries. On a broader level, trafficking cannot be understood unless seen in context with a capitalist/patriarchal system, the phenomenon of modernization and development, the concept of the nation-state, and militarization which are all root causes of the growth in trafficking.

Global trafficking in children is much more profitable and attractive than arms and drug smuggling, partly because the punishment for the trade in humans is less severe based on lack of evidence.

The consequences of trafficking for girls and women are serious and often exist in a combination of the following factors:

- psychological trauma/fear/depression
- mental abnormality
- physical damage of genitals
- unwanted pregnancy
- several abortions
- sexually transmitted diseases
- AIDS
- tuberculosis
- stigmatization as social outcasts

### **Recommendations**

The National Commission of Women has made some recommendations in the book titled "In Pursuit of Justice, Empowerment & Equality". SANLAAP has adopted some of them and are working on them.

1. The buying and selling of minors per se must be punished heavily.
2. Introduction of legislation to make marriage registration compulsory in India.
3. Widening the definition of the "child".
4. More straight forward punishment for traffickers.
5. Concerned agencies must create awareness at every level.
6. Orientation of Police, Authorities, Judiciary etc.
7. No person/child rescued from the brothel areas should be subjected to HIV testing without consent.
8. Stop stigmatization of the children of prostitutes.
9. Provision for Free Primary, Reproductive and sexual health education for women in prostitution and their children.
10. Simplification of the repatriation process and to look into reintegration of the rescued

children in prostitution – through government agencies & NGOs.

11. Rescued children must be ensured 100% health care.
12. Concrete health policies need to be formulated to combat the menace of AIDS.
13. An awareness package should be designed by the Government to raise the education and legal awareness to the vulnerable masses.
14. Children should be informed of the role they can play in preventing child abuse.
15. Religious, traditional and cultural beliefs and practices must be abolished that lead to prostitution.
16. NGOs with the help of local bodies and the government should focus on risk areas at the grass-root level to prevent the induction of young girls into prostitution.
17. Support services must be accessible for all.
18. 100% implementation of the existing laws.

The implementation of these recommendations by the appropriate bodies will go a long way in alleviating the status of such children who are at risk, and in future, prevent more children from walking into this trap.



## Panel Discussion – Role of Government and International Organizations

### ILO-IPEC

Mr. Hans van de Glind

*Programme Officer South-East Asia*

In my presentation I will touch upon trafficking in children rather than women, as I work for the child labour programme of the ILO. Most of my comments however, will apply equally to trafficking in women.

I will first make some general comments on trafficking based on ILO's work done till so far. I will then touch upon interventions of various agencies, and will end with ILO-interventions.

#### **Some observations on the issue:**

-Trafficking flows are related to perceived economic disparities. To illustrate: Burmese girls are predominantly trafficked to Thailand; Thai girls are mainly trafficked to Japan.

-Trafficking takes place for different reasons – most often the end result is labour exploitation, including sexual exploitation.

-The profile and background of trafficked children often comprises of the following: low level of education, dysfunctional families, single parent households, family debts, social exclusion and, dreams of a better life in the city.

-A lot of research has been done, but as is often the case, many unknowns remain. Suggested future research should focus on the economics of trafficking networks, including profit margins, and who's in control. We also need to look at culture specific factors that favour trafficking in children, as well as rationales in decision-making processes.

### **Observations on interventions and agencies involved:**

-Any programme which is designed to address trafficking in children should acknowledge the primary role of national governments.

-Traffickers are often part of well-organized international criminal networks. At the same time, co-ordination among agencies that aim to combat trafficking is virtually absent.

-NGOs do great work on the ground, but is often at a small scale and without expert knowledge. Capacity building in the sense of networking and working together, as well as upgrading skills and knowledge of these organizations should be a key priority for effective longer-term actions.

-An emphasis on prevention is a cost-effective approach in the long run as reintegration of victims is a complicated matter.

-However, as long as there are so many victims of trafficking, we of course also need to provide reintegration assistance – following a holistic approach.

-Comprehensive reintegration touches upon a multitude of needed expertise. Expert agencies in different fields should identify their own core strengths and join forces to offer a comprehensive package of services (for instance, offering vocational training will not be effective if trauma-treatment is not taken into account).

-Having watertight laws against trafficking is one thing, having effective law enforcement is another – various papers and conferences indicate that law enforcers at lower levels are often not well trained, are often unaware of specific laws related to trafficking, and normally have very modest salaries. All these factors lead to below standard law enforcement practices.

### **ILO interventions to combat child labour:**

-ILO focuses on trafficking in children under the banner of its programme to eliminate child labour, and from the perspective that the majority of trafficked children end up in exploitative labour conditions. Root causes of child labour and child trafficking are furthermore very similar.

-The ILO has a long history of activities to combat child labour through the adoption of international labour standards (such as Convention No.138 on Minimum Age of Employment, and Convention No. 29 on Forced Labour). The ILO furthermore collects and disseminates information on the issue, conducts research, and offers direct technical assistance to countries through the International Programme on the Elimination of Child labour (or IPEC in short).

-The ILO-IPEC programme has developed into a truly global programme, expanding its operations significantly in some 50 countries in different regions and implementing a total of nearly 1,000 action programmes worldwide.

-Some key elements of the ILO-IPEC strategy are in-country ownership; identification and replication of sustainable action; the mainstreaming of child labour concerns in national policies; priority for prevention and abolition of the worst forms of child labour; and fostering broad alliances of partners at national and international level.

-The focus of activities under ILO-IPEC is more and more on the most exploitative forms of child labour, and includes activities to combat trafficking in children. A proposed new Convention has been developed on these worst forms of child labour and will be considered for adoption during the 1999 International Labour Conference. Attention was raised for this new instrument during the Global March Against Child Labour which was held earlier this year, and which ended during the discussions on the new Convention at ILO headquarters in Geneva. The objective of the proposed new Convention is to reinforce the need for slavery, debt bondage, prostitution, work in hazardous occupations and industries with a particular focus on the very young (under 12), especially girls.

## **ILO interventions to combat trafficking in children:**

-Pilot activities to combat trafficking in children have been tested out in various countries in Asia. Based on lessons learnt, and research activities, building blocks for sub-regional programme to combat trafficking in children have been identified. Potential groups of interventions were put together in a document entitled: 'Framework for action to combat trafficking in children for labour exploitation' which was shared during a sub-regional consultation on child trafficking in July 1998 in Bangkok. You all have a copy of this document. A similar report was issued recently in Kathmandu during a South Asian sub-regional consultation on child trafficking.

-The main groupings of possible interventions are: (1) direct action programmes to prevent the problem and reintegrate victims; (2) advocacy for policy change and campaigns; (3) capacity building by strengthening (i) legislation and law enforcement, (ii) research and information dissemination, (iii) and in-country co-ordination and networking.

-During the discussions in the sub-regional consultations, priority actions for ILO-IPEC support were identified in the field of capacity building in various areas, and networking and co-ordination.

### **Regarding capacity building the following:**

Based on its comparative advantage, ILO-IPEC will develop training manuals on specific interventions (for instance a manual on vocational training, one on employment creation, and one on legislation and law enforcement), and will also provide training services on these issues to local partner agencies. Training on other important interventions such as psychosocial counselling and trauma treatment should be done in collaboration with other agencies such as ESCAP and UNICEF.

### **With regard to co-ordination the following:**

In the respective Asian countries, ILO-IPEC will support a key ministry to improve in-country co-ordination on a national scale. A promising start has been made in Nepal where the Ministry of Women and Social Welfare receives IPEC support to improve co-ordination on combating trafficking in children in Nepal. A national task force has been established, in which the Ministry of Women and Social Welfare plays a key role, and all activities – also those supported by other donors – do pass this task force to ensure co-ordination and fine-tuning of activities. Similar approaches are planned to be taken in the Mekong sub-region.

National focal points will furthermore be installed at country level to ensure co-ordination of activities to combat trafficking with those of other agencies, and with the ongoing IPEC child labour programme. These focal points will provide backstopping and technical support to the national task force to combat trafficking.

-In all of these activities it is important to start from what is already available, rather than to create new organizations and structures. For instance, most countries in the Mekong sub-region do have a committee assigned to implement the Agenda for Action of the Stockholm Congress Against Commercial Sexual Exploitation of Children which could be utilized to co-ordinate interventions to combat trafficking.

-My final comment is on UN specialized agencies. Many of them do already implement specific activities to combat trafficking. These activities should be taken as a given and should be built on further. We can only do so if we improve information sharing on ongoing and planned activities among UN specialized agencies and others. There are mechanisms available through which this could be achieved. For instance, the Resident Co-ordinator in respective countries normally convenes 2-monthly meetings with heads of UN agencies where issues related to trafficking could be discussed. At sub-regional level UN-agency specific activities could be co-ordinated under RICAP – the Regional Interagency Committee for Asia and the Pacific. Another regional body is the UN interagency taskforce on trafficking that got together a number of times over the last 12 months, and that is developing a sub-regional programme to supplement ongoing activities of specialized UN-agencies.

## **International Organization for Migration**

Mr. Anders Knudsen

*Trafficking Programme Development Focal Point, IOM, Geneva*

The International Organization for Migration is pleased to be given the opportunity to address this Regional Conference on trafficking in women. As requested in the invitation IOM's contribution will focus on new trends, approaches and support in the action against trafficking in women, in the light of the prevailing political, economic and social environment in the region.

I would however like to start with a description of the problem of trafficking in women as it responds to the changes of the economic and social environment in the region.

As a response to the economic problems, many of the receiving countries in the region have imposed stricter and more prompt sanctions on foreign workers employed illegally in these countries, and the possibilities for obtaining a work permit have decreased drastically. At the same time it is observed that considerable demand continues to exist for foreign labour.

In the current down turn of the economy in this region as in many other parts of the world, many private companies are forced to cut down costs in order to survive. A reduction in salaries is one option, which many companies are applying. One way of doing this is to employ cheap foreign and irregular labour.

With a big supply and a strong demand, the measures put in place in many countries aimed at limiting migration and the presence of foreign workers have therefore not to any significant extent managed to reduce the presence of foreign workers. One major and problematic effect of these deliberations has simply been to force the irregular migration and the lives of irregular migrants further underground. This is a great concern to IOM.

It is exactly the illegality of cross border migration which is creating the market for "services" such as the provision of fraudulent travel documents, transportation, guided border crossings, accommodation and job brokering. Traffickers are providing these "services", at costs, which are usually considerable for the migrant, and trafficking is assumed to be a very profitable business, and even more now with increased restrictions.

Whereas many before the down turn could migrate relatively free, and by their own means, across borders in the region, as the enforcement was not so strict, it is now believed that trafficking plays a more significant role in the provision of cheap labour. Because of a stricter enforcement of the law vis a vis individual irregular migrants, many are increasingly obliged to seek the "services" of traffickers in order to reach their goal.

It is not only the actual transportation of irregular migrants which has become more expensive and dangerous to the migrants, the every day life in the receiving countries has also to a great extent been influenced by the increased illegality. The irregular migrants now to a much larger extent depend on the "protection" of employers in order not to be arrested and deported. The very high dependence on employers, and middlemen, often leaves the migrants in an extremely vulnerable position where they have to bear abuse, exploitation, humiliation and often violence. Only the lucky ones receive a salary for their work.

### **Trafficking in women**

Even though trafficking in women is very much a part of a larger irregular migration picture it is also a particularly disturbing part. The reason why trafficking in women deserve special attention is because of the relatively higher degree of vulnerability of female compared to male migrants. This vulnerability is a result of the generally lower social status of women in society, which has occurred throughout history, and across cultures.

### **Further aggravation of the problems**

With the present crisis and the suppression of irregular migration, the lives of irregular trafficked migrants, and

of women in particular, have been pressed further underground, meaning that the difficult and vulnerable situation of these people has further aggravated:

- The irregular migrants have to increasingly rely on protection by employer or agent.
- They have to accept that serious violations of their basic human rights are committed against them. These often include: extortion, debt bondage, indentured servitude, as well as sexual violence and exploitation.
- They are living in constant fear of arrest and deportation, which could also mean the risk of further exploitation and abuse by corrupt law officers.
- In spite of the fact that irregular trafficked migrants, and women in particular, are often abused, subjected to violence, or exploited, they rarely enjoy any legal rights in the receiving country. If they complain to the police they are simply arrested, charged with illegal entry and deported.
- Trafficked migrants often have to rely on quacks or improvised health care, as they do not have access to public health care.
- Trafficked children do not have access to public education.

#### **New trends, approaches and support.**

As trafficking in women is very much apart of a larger irregular migration picture, it is important to bear in mind, when searching for longer term solutions to this phenomenon, that poverty, lack of opportunities, scarce resources, low status of women in society, and political and economic instability are what drives irregular migration as a whole. In the long run, as was agreed in Cairo at the International Conference on Population and Development, Governments, intergovernmental and non-governmental organizations, and other elements of civil society must work closely together to address these root causes.

The good will and the attempts by these actors to address the root causes, are however seriously impaired by the constantly worsening economic situation in many countries of the region.

With the worsening situation of trafficked migrants, and women in particular, the need for direct assistance and support to victims of trafficking has increased, during the last year or so.

IOM is therefore convinced that along with attempts to address the root causes it is becoming increasingly important to address the issue from a practical and pragmatic perspective.

IOM has traditionally focused on addressing two stages in the trafficking process:

- Firstly through prevention before victimization occurs, by providing potential victims of trafficking with information about trafficking, so that they will be in a better position to make an informed decision.
- Secondly through direct assistance and support to victims of trafficking.

Given the new trends in the region, and the fact that both the push and the pull factors have strengthened considerably with the crisis, IOM is currently considering to further strengthen our activities in the area of direct assistance and support.

In his context I would like to share a few observations with you.

In order for governments and international organizations, to provide assistance and support to victims of trafficking it is an important prerequisite that this group of people is primarily recognized as victims of crime and exploitation, rather than offenders of immigration laws.

Through such a change of perspective for many governments, a whole new range of activities, are opened up for international organizations, governments and NGOs. These include:

- Appropriate policies and legislation to penalize traffickers should be promoted and adopted.
- Systems and practices should be established to distinguish between “normal” irregular migrants and victims of trafficking.
- Legal assistance should be provided to victims of trafficking, with a view to provide them with the proper payment for their services and sufferings.
- Provided that the victims volunteer to act as witnesses against the traffickers, the traffickers and exploiters should be further charged for their criminal activity. Proper protection and reward should be provided to the victims.
- Medical assistance should be provided to this large, and so far unattended group of people. Apart from meeting an immediate need, the spread of diseases in the receiving country is also prevented.
- Shelters and counseling should be provided in receiving countries.
- Bilateral agreements for protected return and reintegration should be promoted and established. Etc etc.

As the situation of irregular migrants and trafficked women in particular is further worsening, a strong, comprehensive and harmonized response from governments and the international community is needed. As a step in the right direction IOM appreciates to have been given the opportunity to share our considerations at this conference.

We work closely with many countries and organizations participating in this debate, and remain firmly committed to such collaborative action as the only path to success in addressing trafficking in women as an insult to our common humanity.



Ms. Sophie Piquet

*Administrator, Section Equality between Women and Men, Directorate of Human Rights*

First of all, I should like to thank warmly the organizers of this important conference for having invited the Council of Europe to present its work in the field of action against trafficking in human beings for the purpose of sexual exploitation.

The Council of Europe, based in Strasbourg, is the European Organization with a clear Human Rights mandate and 40 Member States, among which 16 countries from Central and Eastern Europe. As it groups countries of origin, transit and destination of trafficked persons, the Council of Europe has very early on been directly confronted with this issue.

Trafficking is central to Human Rights and, since the late 1980s, the Council of Europe, whose principal vocation is to safeguard and promote human rights, has been the "natural home" for activities aiming to combat a phenomenon which constitutes the violation of women's dignity and integrity, their freedom of movement, as well as, in some cases, their right to life.

Clearly, as far as the individual is concerned, trafficking affects the very foundation of Human Rights: the equal dignity of all human beings. The very essence of human rights - and particularly women's human rights - is at risk.

At *society* level, trafficking constitutes a modern form of slavery, and puts into question the rule of law and the fundamental democratic values. For the countries concerned, it creates an element of instability, weakens immigration policies, intensifies nationalist sentiments and ethnic tensions. In the long term, the democratic security of the European continent is threatened.

This was acknowledged by the Heads of State and Government of the 40 Member States of the Council of Europe at the Strasbourg Summit held in October last year: in the final declaration, they collectively expressed their determination to combat the sexual exploitation of women.

It is, therefore, in the interest of all to fight trafficking in human beings. The international community has started to mobilize. In Europe, until 1989, the majority of victims were coming from other continents (Latin America, Africa or Asia). Trafficking from these countries has continued, but, since the fall of the Berlin wall, the percentage of women coming from Central and Eastern Europe has more than trebled. European NGOs working in this field report major influxes from the area of the former Soviet Union (countries such as Russia and Ukraine have become major exporters), from Hungary, Slovakia, Czech Republic, Albania, Bulgaria, etc.

As I mentioned earlier, the Council of Europe has been active very early on, and it launched an in-depth discussion on the subject in the early 1990s, with the organization of a seminar. Since then, numerous seminars, conferences and workshops have been organized both at national and international levels, gathering field experts from NGOs, governmental representatives, parliamentarians and others. Also, projects and programmes have been launched and implemented.

However, despite all the work done in this field over the past ten years, we have to face the fact that trafficking is still growing rapidly, and remains an extremely difficult and disturbing phenomenon. The search for solutions is not easy. New trends appear all the time, and trafficking actually constitutes a "moving target", more and more difficult to hit.

Several problems arise when dealing with the issue of trafficking, and our experience in the Council of Europe shows that the number of problems to solve matches the number of difficulties. Allow me to underline some of the characteristics of trade in human beings which make it particularly complex.

## **Trafficking in human beings in Europe: the challenges ahead**

The first major issue is certainly the scale of the phenomenon. It emerged clearly from the discussions held during a seminar for NGOs organized in June this year by the Council of Europe that modern trafficking is increasing rapidly, especially as far as the sums of money involved are concerned. For example, the figure of 7 billion US dollars per year was given for Ukraine, and, for Latvia, a figure was given which was treble the annual budget for the administration of the city of Riga. Trafficking definitely belongs to the category of large scale and organized crime.

The wide geographical scope of the phenomenon also complicates the issue. IOM, the International Organization for Migration, reports that the worldwide number of international migrants rose between the years 1965 to 1995 from 75 to about 130 million people. The absolute number of migrants in the world has been constantly increasing. Even if trafficking routes seem to be directed from less advantageous areas towards wealthier countries and regions, trafficking is a worldwide issue, a global transnational and transborder business.

In quite a few countries, the present political, social and economic conditions seem to encourage migration and create immense potential of action for traffickers. To take Ukraine as an example. Ms Nina KARPACHOVA, the National Ombudsman who intervened at the NGO Seminar organized by the Council of Europe in June mentioned that "social, economic as well as political crises in Ukraine have resulted in mass unemployment. Nowadays, only 11.5 million jobs out of 23 million are occupied. The share of unemployment among women constitutes more than 80 percent. The women are the first to be dismissed .... According to recent information, 1 million 400 thousand Ukrainian women aged from 18 to 25 have no job and form the so-called risk group, i.e. potential victims of the sex business. With the help of intermediaries, 400 thousand women went to work abroad, and more than 100 thousand are exploited in the sex business ..... in countries such as Germany, Israel, Belgium, the Netherlands, Turkey, Greece, Switzerland, Austria, Italy, the USA and even in Africa, Arab Emirates, and China ".

Another difficulty lies in the legal framework and remedies which, both at national and international level, seem inadequate and not efficient enough to fight such a phenomenon. In Europe, some ideological divergences in dealing with prostitution or the sex market still inhibit progress and explain the absence of an accepted definition of trafficking at international level. There is a lack of clear legal provisions, and traffickers, for whom the penalties are generally very mild, operate in these legal loopholes. They seem to know perfectly well the existing legislation in order to be able to get round it. Trafficking is clearly a crime, but the criminals go almost unpunished, especially in comparison with other forms of trafficking, involving drugs for example.

Recently, the mass media have developed an interest in trafficking. As a relatively new phenomenon, it holds new value and in the last years there have been a number of media reports dealing with trafficking. Many western European public service channels have broadcast documentaries on the issue and one can find reports on trafficking and sexual exploitation in most newspapers across Europe. However, this is not always positive, as often the presentation of trafficking is impregnated with sensationalism. Coverage of trafficking in human beings often focuses too much on the individual whose case provides the news angle. The story of sexual exploitation in general and its commercial aspects, in particular is not being told in full. If mass media certainly have an important awareness-raising role to play, however the rights of the victims are often forgotten in the quest for gripping news coverage that will help sell the paper. In a report, the Council of Europe's Committee on Crime Problems warned:

"Often the mass media function as a two-edged knife in this area of concern. The unravelling of sensational sex and crime cases .... tends to overemphasize the issue and to blur the picture. Sometimes, though, it is the media which help to uncover cases of sexual exploitation and to raise awareness of the problem. But it is also the media that generally infiltrate the public with liberal and tolerant attitudes towards child pornography and prostitution or provide the ways and means (for example advertisements) by which sex gratification may be achieved."

Last but not least, I think that it is important to mention that traffickers make use of all the modern technologies, including information technologies such as Internet. Unscrupulous persons such as paedocriminals, pornographers, those belonging to sects and others have been quick to realize its

enormous potential. As Internet is a medium virtually without mediators or borders, illegal or harmful acts committed on it entail less risks. Trafficking in human beings under the cover of offers of employment or e-mail-based marriage bureau, sex tourism, trafficking in children through so-called adoption agencies, the sale of pornographic photographs and texts, real time "video-conferences", telephone pornography and catalogues of prostitutes are just a few examples of phenomena which have grown enormously because of Internet.

### **Actions undertaken and role of the Council of Europe**

Taking these facts into account, the fight against trafficking in human beings appears as a real challenge. When attempting to take up this challenge, experts in the Council of Europe realized at an early stage that, to tackle the global issue of trafficking, a multidisciplinary approach was essential. To avoid failure, traffic in human beings for the purpose of sexual exploitation must be fought against on several fronts.

The issues which I have just raised show that a great number of sectors of society are involved or concerned by the question of trafficking. It concerns Human Rights and equality between women and men, migration, national and international law and legal co-operation, crime problems, social policy, medical issues, mass media. The complexity of the problem, and in particular its direct links with organized criminal networks, the labour market, the need for prevention and social measures for the protection of victims, for sensitizing police officers and judges, as well as other socioeconomic aspects have made it clear that a multisectoral approach is indispensable.

But I should also like to add that, not only is it necessary to combine different domains, but also to involve different kinds of actors, at various levels.

At national level, the relevant social, judicial, criminal, administrative, customs, law enforcement and immigration authorities should be alerted, together with non-governmental organizations (NGOs) and associations. Media professionals should also be sensitized.

It should be also noted that, in some countries, the appropriate legislation does not yet exist, or is not applied to trafficking in human beings. In this regard, let me give an excellent example of action undertaken at national level: Ukraine, one of the main exporters of "living goods", had no legislative basis to prevent trafficking in human beings. After four years of work, and thanks to the initiatives undertaken by the National Ombudsman, a law was adopted in 1998 which punishes trafficking in human beings and other related crimes with up to 15 years detention.

At bilateral level, co-operation should be encouraged between both national authorities and NGOs of countries of origin, transit and destination. This is an important dimension, as sometimes acute problems appearing at the borders could be dealt with bilaterally (for example: borders between Austria, Slovakia and Hungary; between Germany and Poland; between the Russian Federation and Norway, etc.).

Coming now to the international level, I should like to dwell on the role of the Council of Europe. The work of my Organization is clearly based on a multisectoral and multipartnership approach. The aim is to work with all the actors concerned in all the relevant fields.

In 1998, the actions taken by the Council of Europe in the field of trafficking were twofold. The first type of activities is *awareness-raising and action oriented*: in this respect, two seminars were recently organized in Strasbourg.

I have already briefly mentioned the first one, which focused on the role of NGOs and took place in June this year: it gathered 150 participants representing national NGOs from more than 40 States. Participants shared grassroots experience along with experts from the Council of Europe and other international organizations. The seminar adopted a set of conclusions and recommendations addressed to NCOs, governments, and the Council of Europe, advocating joint and concerted actions to be undertaken (copies are available in the room).

More recently, at the end of September, a workshop studied the way in which women's image in the

media can affect trafficking. About 60 media professionals attended from television, radio and newspapers throughout Europe. Among other things, solutions were sought in order to avoid sensationalising and creating a better understanding of the phenomena of pornography and prostitution. The experts presented findings on the use of Internet sites to advertise sex tourism and brothels which is a more and more alarming concern, as I mentioned earlier. Having to face this new trend, the Council of Europe is now considering the feasibility of preparing guidelines on the use of new technologies in order to prevent their negative impact on the issue of trafficking.

Finally, I should like to stress that the Council of Europe is also active in the *legal field*: a Multisectoral Group of Specialists is now working on a draft recommendation of the Committee of Ministers to the Member States. This Group, once again, takes into account the principle of multidisciplinary: it is composed of specialists nominated by different committees of the Council of Europe competent in equality between women and men, mass media, social policy, human rights, legal cooperation, crime problems, migration. Representatives of the European Commission have taken part in all the meetings of the group and close collaboration has been established.

The draft recommendation that the Group is working on focuses on various issues such as assistance to and protection of the victims, awareness-raising, information and education, prevention, social measures, right of return and rehabilitation, mass media, etc. It is hoped that this text could be adopted by the Committee of Ministers of the Council of Europe in 1999. Constituting a full legal international instrument, it could then be used as a basis to improve co-ordination of efforts made at national and international level to combat trafficking. Beyond this coordinating function, the text should also be used to raise the awareness of decision makers in the member States of the Council of Europe.

From the discussions of the Group, as well as through contacts with NGOs and other bodies, an important element emerged, which I would like to share with you, and that is the key role that international organizations can play in this field. Facing well-organized criminal organizations, which act at global level with the most modern means of communication, requires a collective effort. Awareness-raising, cooperation and research are important tools in this fight, and it is essential that competent international organizations and NGOs co-operate and even launch joint actions. Real "coalitions" should be created to fight trafficking.

The NGOs working directly in the street are of course on the front-line. Their work is extremely difficult and also dangerous. Many of the streetworkers I have met told me how often they had been threatened, even in court, by traffickers and criminals who are supported by entire criminal networks. The protection they need should come from the police, of course, which has a key role to play, but also by the community at large.

That is why it is important to create international networks, to gather and present information on the full scope of international traffic in human beings, to carry on more effective investigative and awareness-raising activities. National NGOs also need global support. Therefore, co-operation between international organizations across the continents is essential, and this conference is a perfect example of such a practice.

The need for international co-operation is duly taken into account by the Council of Europe, and many exchanges have been organized with the European Union, Europol, Interpol, IOM and the existing international networks. Other concrete proposals for co-operation could certainly be studied. At this stage, let me inform you that my Organization is envisaging to hold a series of awareness-raising seminars in its new member States in 1999. When possible, direct co-operation with other international organizations could be envisaged.

Let me conclude on this point. As you have probably gathered, the Council of Europe has been working on the issue of trafficking in human beings for almost a decade now. The Organization has witnessed many phases, many developments and nowadays, trafficking seems to be put higher and higher on the political agenda. This is a positive result. But we should not stop there, and all the necessary means should be taken to fight a phenomenon which constitutes a gross violation of women's human rights. I must say that the intervention of organizations at global level could certainly be a decisive factor for the advancement of the question.

## **Ministry of Women and Children Affairs, Bangladesh**

**Ms. Jayenti Sannal**

*Law Officer*

### **Trafficking in Women**

Trafficking in women and girls is now a common phenomenon and social issue in Bangladesh like in many other Asian countries. Women among the poorer communities are offered better jobs and marriages and thereby lured to going "voluntarily" with agents of trafficking networks. Girls from middle class and lower middle class families also increasingly face being kidnapped from schools and working places.

Trafficking as an underground business is flourishing and has become an easy-money making opportunity. Though the traffickers maintain a strong alliance with their counterparts in other countries, efforts of trafficking are very often exposed. Reports reveal that trafficking in women and girls is specifically done for abusing them sexually, and as well as for using them in supplying vital organs.

Trafficking in women and girls is one of the most barbaric forms of violence. The trafficked women reportedly lead an inhuman life when their entire bodies are sold for profit. These violations are inconceivable by any sensible human being.

### **Trends**

Brokers and agents trafficked women and children in the form of family travelling to another country. Every checkpoint in the 4,222 km border region with India is used as a trafficking route. The traffickers have permanent stations in Kurigram, Lalmonirhat, Panchagar and 135 enclaves (Chitmahal) in Nilfamari. Sixty-six Pakistani camps in fourteen districts serve as a depot for traffickers. These Pakistanis illegally travel to Pakistan using the Punjab route to take women and children to Pakistan and sell them. Their agents are working in every bus, railway station and launch terminal. Enticement of a job or money, stealing, hijacking are used as primary ways to collect victims.

A report from Pakistan shows that there are over one million undocumented Bangladeshis. A significant portion of this population is believed to be trafficked. According to the research conducted by Lawyers of Human Rights and Legal Aid (LHRLA) conducted in 1991, 1992 and 1993, approximately 100 to 150 Bangladeshi women are brought into Pakistan and at least 2000 are languishing in jails and shelters across the country. There are 300,000 Bangladeshis in India and a greater number in the Middle East living as prostitutes, beggars, camel jockeys and housemaids. We believe that a complete and thorough investigation would reveal more information about the traffickers and also a way to resist trafficking.

In a survey conducted by the Central Social Welfare Board of India shows that 2.7% prostitutes in India is Bangladeshi. According to the report of SAARC and UNICEF, there are 500,000 foreign prostitutes in India, out of which 2.7% are Bangladeshi, 2.6% Nepali, 0.7% Chinese (Tibet), 0.3% Kuwaiti, in total 6.3% of foreign prostitutes. The total number of prostitutes in India is 7,936,509 among whom 214,286 (2.7%) prostitutes are Bangladeshi. Street walkers, singers and dancers, barmaids, theater and health care personnel, independent prostitutes, call girls were not interviewed in the survey but are increasing day by day.

Most of the prostitutes working in brothels of Delhi, Mumbai, six brothels in Calcutta and other Metropolitan cities state that they were born in Bardhaman, Purulia, Calcutta, Hawra, Huglee,

Jalpaiguri, Medinipur, Murshidabad, Nadia, twenty-four in Pargana and other places of West Bengal. But in reality a large number of these women happen to be Bangladeshi as identified in the survey.

There is an unwritten relationship between the traffickers and law enforcing agencies. The network is made possible with the collaboration of the local police and marriage registration officers. The sham marriages arranged by the registrar allow the so-called "husbands" to smuggle their wives in exchange of money. Because of legal loopholes the prevention of women trafficking is difficult. About two thousand one hundred women are confined in Pakistan under the Hudud Ordinance. Punishment of the crime is death by throwing stones. The Bangladesh Government had admitted that 104 women are confined in several jails of South Asia and they do not have any legal papers for taking legal action. Extreme reluctance is responsible for this suffering. Few non-governmental agencies have come up with courageous steps for rescuing these helpless women. Most of these Bangladeshi women do not want to come back to Bangladesh for fear of social stigma and of being ostracized.

### **Law**

There are special laws in existence in Bangladesh for prohibiting and making exemplary punishment for trafficking in women and girls. But both the governments of the sending and receiving countries of trafficked women and girls need to play a greater role in ensuring strict enforcement of national laws and to take responsibilities to repatriate the trafficked women and children to the respective countries.

### **Legal steps**

The Bangladesh Penal Code was amended several times to implement the laws in an effective manner to prevent crime. For taking legal action against this heinous crime, the following laws are implemented:

- the Penal Code of 1860 and
- the Children Act (Pledging of Labour) of 1933.

After the liberation in 1971, a new era was introduced for protecting the rights of women and children. Torture of women and children had increased. The following laws were therefore introduced:

- the Cruelty to Women (deterrent punishment) Ordinance of 1983; but the rate of violence did not reduce.
- on 16<sup>th</sup> July 1995 the Cruelty to Women (deterrent punishment) Ordinance of 1983 was amended and Oppression Against Women and Children Act (Special Provision) of 1995 was introduced; in this special Act emphasis was put on rape, trafficking, kidnapping, taking and giving of dowry, violence related with exemplary punishment.

Section 8 of this act deals with women trafficking and punishment. In the said section it is stated that if any person with the intent to use women for the purpose of prostitution or for any unlawful or immoral purpose import women for rent or employment shall be punishable with imprisonment for life or more than this.

Section 12 of this act also states that if any individual illegally exports, imports or sells any children or keeps any children for the purpose of export, import or sale, he or she shall be given the death penalty or life imprisonment.

Although this offense has been given highest priority and exemplary punishment, the law enforcing agencies are not active at all and only few cases have been filed. Only in two cases of trafficking the perpetrators were found guilty under the 1995 Ordinance and sentenced to life imprisonment. This law has several loopholes, and therefore reforms of this law have been

demand. The government has decided to reform this law during the next parliamentary session.

### **Role of GO and NGOs in Combatting Trafficking**

#### GOs role:

- Law enforcing agencies in different areas including borders should be activated to combat trafficking.
- Trafficking as a topic is to be included into the formal and informal education syllabus.
- Creation of administrative and legal infrastructure to combat internal and international trafficking is necessary.
- There should be realistic and relevant laws to prevent child trafficking and stringent punishment should be clearly spelled out for law breakers.
- There should be a massive and comprehensive campaign programme both in print and electronic media.
- Governmental machinery should be well informed and sensitised through routine training programmes to combat trafficking.
- The activists working in the area of trafficking should have strong networks and the government with the help of the police should provide for their security.

#### NGOs role:

- The preparation of a comprehensive National Policy regarding anti-child trafficking. NGOs should inform the vulnerable age group children, their guardians, field workers, transport workers, marriage registers, advocates, teachers, cultural workers about the issue of trafficking.
- The preparation of educational materials including Audio Cassettes and Booklets.
- GOs and NGOs should cooperate.
- Arrangement of protest rallies, meetings, mock trials, street theatre with the participation of popular and known artists especially in high risk areas – to be organised by GO and NGOs.
- Sensitisation of religious institutions to address the problem in a positive way.
- GO and NGOs should sensitise the vulnerable age groups regarding the ill effects on children as they are being used in drug trafficking.

### **Conclusion**

Law itself is not the only panacea in stopping trafficking in women and girls. Its implementation and awareness at the mass level are also necessary. In recent years women organizations in Bangladesh are working hard to develop networks among the regional counterparts. This is an issue which does not invite any political debate. So, with enforcement of laws and greater consciousness a fair result in this regard may be achievable. Looking at the present developments on the crimes against women, one should realise that this problem is interlinked with the growing socio-economic, cultural and political exploitation in the country.

The issues of trafficking must be included in the work plan of the NGOs as well as GOs. The socio-economic infrastructures should be developed for illumination of trafficking. Trafficking of women has been called modern slavery. This trade is more globalized and more methodical than ever. To prevent this trade international help is a must. It is found that the victims of the crime can be powerful source in preventing it. To combat this form of slavery it is necessary to have a concerted plan of action at the global level. The key issue for formulating policy and strategies are to protect the rights of women victims and prosecute offenders behind these heinous crimes.

This is an issue which does not invite any political debate. So with the enforcement of laws and awareness at mass level a fair result may be achievable. We fully endorse the UN resolution no. 51/66 in this regard and urge for implementation and compliance by all the member countries to protect women and girls from trafficking.



## **National Commission on the Role of Filipino Women**

Ms. Aurora Javate de Dios

*Executive Director, Coalition Against Trafficking in Women Asia Pacific*

### **Introduction**

This regional conference on trafficking in Women is occurring at a time of critical importance to the Asian region. The economic crisis that has affected South and East Asia has resulted in massive layoffs and economic dislocations to workers, both men and women. The remarkable economic miracle that Asia experienced in the last decade was partly a consequence of the tremendous contribution of women in the productive sectors of Asian economies. As workers, women comprise a major share of the labor force in most Asian economies. Specifically, they dominate the export sector in East and Southeast Asia (80% of the work force in export processing zones, ILO Report, 1995). Likewise, They are economically active in the informal sector where they dominate in food processing, trading and home-based work. As migrant workers, they contribute in no small measures towards the survival of entire families.

The current economic crisis, aggravated by recent natural calamities like floods and typhoons in most parts of Asia, is seriously eroding these economic gains by women and endangering their economic life support systems. These conditions heighten women's vulnerabilities to abuse and exploitation including trafficking and prostitution.

On the eve of the 50<sup>th</sup> Anniversary of the Universal Declaration of Human Rights, there is greater awareness of the issues of human rights and a higher level of commitment from governments and civil society to address the persistent factors that account for human rights abuses. Although trafficking is historically one of the oldest issues that drew international attention and concern, it has remained one of the most persistent and disturbing problems of the 21<sup>st</sup> century. Thus, this conference is timely in focussing on new trends, approaches and strategies in combating trafficking in women. It is obvious that sporadic and scattered efforts will not effectively minimize, much less eliminate, the problems associated with trafficking. We need to have a closer look at what has been done so far and explore the possibilities of more integrated response systems.

### **Recent Trends in Trafficking in Women**

The worldwide network of sex trade in women and children has not abated as can be learned from reports in the media and NGOs working on the issue. In the absence of a systematic, sustained and standardized format of documenting such cases, estimates of magnitude remain a problem. Nevertheless, several trends and patterns have been identified in several critical areas of trafficking:

- 1) Internal trafficking for purposes of prostitution and sexual exploitation continue to occur in part due to increased and aggressive tourism packages and continuing demand for local prostitution.
- 2) Cross-border trafficking remains a nagging issue in South Asia and Parts of Southeast Asia in the Mekong region where cross border law enforcement and monitoring are often ineffective and inadequate.
- 3) The numbers of girl children from both urban and rural poor communities which are the prime recruiting grounds for illegal traffickers are increasing. Natural disasters,



such as the recent typhoons and floods in the Philippines, as well as civil unrest in many parts of Asia are contributing and driving factors in trafficking of women and children.

- 4) The use of technology to market women and children for purposes of pornography, prostitution and marriage matching is also increasing. The Coalition Against Trafficking's research on the use of the Internet for Global Sexual Exploitation for Women and Children reveals that newsgroups and websites for men enjoy brisk business selling "comprehensive sex related information about every country in the world". The World Wide Web includes the World Sex Guide is a virtual grocery store where men can buy women and girls in over 80 countries from seven regions (Africa, Asia, Oceania, Europe, North America, Central America, the Caribbean and South America) The website provides detailed information on sex tours including where to find prostitutes, hotel prices, hotel and taxi fares, the sex acts that can be bought and their prices. The most voluminous coverage in Asia is Bangkok where men are presented with an array of services such as massage, discos, escort services, Japanese clubs, short time hotels, each with a detailed description

The impact of the Internet on the sexual exploitation of women and girls is unprecedented. It is infinitely more economical, accessible to procure women and girls. Men can completely objectify and classify women and children according to color, firmness of skin and compliance to men. Sex websites have also enabled men to compare their sexual experiences and even sado-masochistic acts with women and girls in prostitution with other men who also bought the same women. The dehumanization of women as sexual objects have reached unimaginable levels. (Hughes, Use of Internet, pp.1-2, 1997).

- 5) Traditional forms of exchanges such as au-pair arrangements and student exchange programs have also been noted as having been exploited by unscrupulous agents of trafficking (Ateneo de Manila, 1998). The UK Police revealed that since April, they have uncovered 500 bonafide cases of young people who have been exposed to abuse in exchange visits in various countries. (Ottawa, Sun, October 13, 1998). There is currently a warning not to freely post photographs of children with their names and addresses in the Internet because they maybe utilized for other purposes.
- 6) Although big time operations are still controlled mainly by organized crime syndicates, there is a proliferation of small time operators at every stage thus facilitating the trafficking process. There are friends, relatives, partner couples, husband and wife teams that constitute the chain of traffickers. These small time operators blend with the communities where they are unsuspectingly trusted by potential victims. They are the essential links of organized crime to the communities. (Philippine Network Against Trafficking in Women, Annual Forum, 1998)
- 7) Regarding shifting modes of recruitment and destination countries, vigilant law enforcement and bilateral cooperation in Thailand and the Philippines have yielded dramatic results in terms of prosecution of child pornographers and trafficking networks. As a consequence, many sex tourists now have shifted their preferred destinations to Latin America, the Caribbean and some Pacific islands.

### **Action and Response**

The last five years have been marked by a heightened awareness of the issue of trafficking of women and children. A Resolution on Trafficking in Women and Girls has been continuously on the agenda of the Commission on the Status of Women, Commission on Human Rights and the General Assembly for the last five years which indicates at the very least a continuing concern

about the issue (Philippine Mission Report, 1998). The issue was well articulated in the Beijing Platform for Action (1995) and the World Conference on Human Rights (1993). Several regional and national level initiatives have also been held that have yielded significant activities and projects to address trafficking in women and girls. The South Asia Regional Commission (SAARC) has initiated a possible regional Convention and Trafficking in Women, and several countries (most recently Thailand) have introduced laws against trafficking in women while others (like the Philippines) are in the process of formulating one.

The most active engagement in the issue has been done by NGOs and international coalitions that have been able to expose the human rights dimensions of the issue and the impact of these on women and children. Over the last decade, numerous conferences, symposia, seminars and workshops have been held to evolve strategies addressing the persistent causes, forms and impacts of trafficking on women and girls.

Specific experiences of the Coalition Against Trafficking in Women and the Philippine Network Against Trafficking over the last two years reveal some useful guideposts for developing a continuing strategy for the long term. The Coalition Against Trafficking in Women –Asia Pacific is an international network with several core groups in Bangladesh, India, Philippines, Indonesia, Japan and Korea as well as in the US, Europe, Latin America and Africa. Among its notable programs are a Preventive Education Campaign (Philippines), A HURIDOCS-Violence Against Women (Philippines); Traffic Watch Network (Bangladesh, India, Pakistan and Nepal); Anti-Military Prostitution Campaign (Japan and Korea); Survivors Programs (Philippines and Bangladesh). On the other hand the Philippine Network Against Trafficking in Women is a consortium of NGOs, educational institution in partnership with a government agency – the National Commission on the Role of Filipino Women --that undertook a two year program to address the multidimensional problem of trafficking in women. It is the first bilateral project between the governments of the Philippines and Belgium funded under an Official Development Assistance Program. The project has an integrated approach that includes bilateral research into the legal and socio-cultural systems of sending and receiving country, socio-legal and health assistance packages including counseling; preventative education and training of communities and government officials. Out of the experiences of these two networks, several strategies are worth mentioning :

- 1) An Integrated and Holistic approach has been utilized by the CATW and the PNATW in addressing the complex dimensions of the problem that stem from the assumption that responses must take into account the full trafficking cycle – from the roots and causes to their impacts and consequences on both the individual and societal levels. This approach requires a multilevel and consortium approach utilizing diverse programs, services and methodologies maximizing specializations and expertise but moving in one unified and integrated way. The approach makes it possible, with very limited resources, to offer a full range of services and programs that are synchronized and complementary. As the network is speaking as parts of a bigger network, the impact is therefore bigger. Likewise, the project includes a complete package of health, counseling, shelter and legal assistance that are immediately available when cases arise (See Report of the PNATW, 1996-1998).
- 2) Developing a sustained community partnership – over the years the Coalition has had the opportunity to establish partnerships with areas deemed at risk from trafficking in women and girls based on records of previous cases, vulnerability levels (as a consequence of natural calamities, poverty levels, etc.) and presence of recruitment activities in the area. Community-based organizations including government and NGOs which are familiar with local settings and goings on are in the best position to inform, educate and alert the community on actual and potential trafficking cases. The community partnership can be sustained through training in information dissemination as well as in the documentation of local cases. Local law enforcement agencies and local law and order councils can work with these local organizations

to form Traffic Watch Groups such as those that already exist in the border areas of Bangladesh and in some provinces in the Southern Philippines.

- 3) Developing a legal framework for prostitution and trafficking in women - in the Philippines, the proposed anti-trafficking law has elicited feedback from numerous sectors as well as concerned government agencies. It is now in the process of being refined and will be filed in Congress and the Senate soon. Bangladesh and India have some trafficking laws in existence but these are now being assessed as to their effectiveness and relevance. The legal strategy, however, is limited by the fact that its enforcement only applies to one country but may not be able to respond to cross-border and international cases of trafficking. This was the case in the Nigeria trafficking victims whose tormentors cannot be extradited from Nigeria to the Philippines because of the lack of an extradition treaty between the two countries.

Most countries have been more responsive to the problem of child prostitution and trafficking whilst being reluctant to criminalize acts of sexual exploitation against adult prostitution and trafficking.

The development of a legal framework leads to the task of strengthening the legal regime against trafficking. The 1949 Convention on the Trafficking of Persons and the Prostitution of Others is hampered by the lack of enforcement and monitoring mechanisms apart from the fact that it needs updating to reflect the tremendous changes both in the magnitude, forms and consequences of trafficking. Although countries can utilize a plethora of mechanisms and venues for the articulation of the issue, what is needed is an integrated international response at the UN level (de Dios, 1997; Washington, 1998). Case studies and legal precedents are particularly needed to build a legal regime around the issue of trafficking.

- 4) Building a Core of Committed Public Officials and Improving Governmental Systems and Procedures in Assisting Trafficking Victims – An indispensable component of any anti-trafficking campaign is the active involvement of government frontline agencies including law enforcement agencies in combating trafficking women and girls. These officials or frontline officers play a critical role in detecting, alerting and spotting potential trafficking situations at any point during the trafficking chain prior to departure. One-stop assistance centers must be visible, accessible and survivor-friendly. Very often victims are faced with indifference and bureaucratic maze in pursuing their cases thus aggravating their sense of hopelessness, victimization and lack of faith in the legal processes of the country.

In addition, these services must be accompanied by strong on site information and assistance centers that are incorporated in embassy operations abroad. Effective liaison arrangements with host countries should facilitate such assistance.

- 5) Case documentation and regular monitoring of high risk and critical areas. A standardized and systematic data format must be evolved to capture magnitudes, definitions, concepts, incidents, actors and routes. This is a must in monitoring cases of trafficking over time. CATW Philippines is piloting this project in six different provinces across the country and will launch its Asia wide program in two years time. A systematic documentation system will assist activists in pursuing cases and advocating for legal and policy reforms.
- 6) Encouraging bilateral partnerships within the framework of official development assistance such as the model provided by the Philippine-Belgian Project Against Trafficking in Women. This agreement placed trafficking as a priority social development issue that impacts on the development efforts of both

sending and receiving countries. It also signals the political commitment expected of countries in order to combat trafficking in women. However, cooperation has not reached the level now being enjoyed by child prostitution cases which provides for extraterritorial jurisdiction in cases of trafficking in children.

- 7) Developing Survivor Programs - trafficked victims must not only be seen as passive observers but active agents in engaging society to confront trafficking issues. All our preventative education programs have been supported by survivors who have boldly come forward and through their personal testimonies enlightened communities about the operations of sex trafficking agents. Their impact in these campaigns have been immeasurable.
- 8) Sustained education and information campaigns and media visibility to complement community based training and partnerships. PNATW in coordination with International Organization for Migration participates in a regular weekly radio program broadcasted nationwide utilizing popular formats like drama serials cum discussion of issues. This program incorporates true stories and is supported by popular radio talents and as a consequence ensures regular media visibility and impact. A yet to be explored by the project is the training of media people in documenting and reporting trafficking cases and to harness their cooperation in building public support and awareness of the issues.
- 9) Male Education – any anti-trafficking campaign will not be effective over the long term as long as it does not confront the male demand side of the prostitution and trafficking problematique. Programs must begin to resocialize men as conscious and active agents in minimizing sexual exploitation and the sex trafficking trade as they are the main market consumers for the trade. The First Offenders Program in San Francisco under the leadership of Norma Hotaling, deals with this largely unaddressed problem. First time offenders (meaning consumers of sex) are made to undergo intensive discussion of the impacts of prostitution on women from survivors of prostitution themselves. This has been hailed as a revolutionary approach because it seeks to demystify prostitution and trafficking as women's problems and squarely puts the burden of combating trafficking for prostitution before the men who demand sex. This program is part of a comprehensive package of services to assist women get out of prostitution and trafficking systems that includes counseling, group therapy, alternative lifestyles and livelihood, comprehensive health programs including trauma, drug and alcohol abuse treatments. The SAGE program recently won the JFK Human Rights and Government Innovations Program Award. The Coalition plans to replicate a modified version of the program in CATW affiliated programs.

### **Exploring Regional Strategies to Address Trafficking in Women**

It is quite obvious that we are facing a situation where the issue of trafficking requires no less than a full political commitment from governments and civil society. Several levels of action need to be explored and initiated:

- 1) National level programs must stress GO and NGO cooperation with focus on community based initiatives. Consortia arrangements have been proven to be the most cost effective and effective approach.
- 2) Regional bodies such as the ASEAN, ASEM, EU and other regional bodies must consider drafting conventions and legal regimes governing trafficking for prostitution and sexual exploitation of both children and women. The clear demarcation and division between child and adult trafficking will only yield partial

results as the male clientele are basically the same sex exploiters of women and children in prostitution systems. The issue must be framed within current human rights concerns as well as developmental issues that adversely affect gender equality, a goal that all countries are supposed to be politically committed.

- 3) Bilateral and multilateral agreements ranging from sharing model strategies and more vigilant law enforcement can only have positive results as has been shown by the Philippine experience. Programs focussing on survivors – both adult and child - must be continually developed and refined. Gender sensitive and child sensitive legal methods during prosecution of cases must be standardized. Legal regimes that effectively remove the onus of criminality to the trafficked women to traffickers, pimps and predators must be developed.
- 4) Periodic case documentation and monitoring across countries must be explored to enhance reporting of cases and prosecution of cases.

All these efforts are however dependent on the continued economic and social stability of countries which must ensure that the position of women and their families are not unduly eroded by periodic economic crisis. More active and enhanced participation of women in the economic and political life of the country towards a gender responsive and equal society will help to stop this continuing human tragedy.

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**Asian Women's Human Rights Council**

**Ms. Nelia Sancho**

*Coordinator, AWHRC, Manila*

**The Case of Man Su Bar Pon**

Man Su Bar Pon is a twenty-three year old Shan native of Burma. She grew up in the village of Saraburi, Thailand. Her father died when she was six years old. She and her mother were forced to live with relatives for economic reasons. Her mother peddled cooked food on the streets and in the marketplace for their livelihood. She dropped out of school after her third grade and started helping her mother earn a living.

In May 1995, when she was about twenty years old, a childhood friend who returned to her village offered her a job as a massage therapist in Bangkok. She accepted the offer and went to Bangkok with her friend because she wanted to earn more money for her mother.

After a week in Bangkok, Man Su Bar Pon was introduced to an "employment recruiter" who offered her a job in the United States. The recruiter told her that "he would acquire a passport for her, including an employment visa from the United States Embassy". The recruiter also promised her that she could return to Thailand after three months in the United States, and that she would have "enough money to start a business for her mother."

The recruiter visited her almost every week. After about four months, the recruiter was able to convince her to come to the United States.

On November 25, 1995, Man Su Bar Pon met the recruiter at the airport. With the recruiter was another man. She was informed that the man "had her passport and employment documents". Man Su Bar Pon was told that the man would accompany her and another woman to the United States. The recruiter also told her that the man "would do all the talking for her and the other woman companion because she did not speak English". Then they left Thailand with stopovers in Singapore and Hong Kong.

When her plane landed in San Francisco, California, the man gave Man Su Bar Pon her passport. She was then told that her "real name" was not in the passport. Man Su Bar Pon was informed that she was travelling under the name "Warunee Preethawat".

Man Su Bar Pon insisted that she be given her real passport that shows her true identity. The man she was with then told her "not to cause any trouble" and to use the passport. He threatened her that "something bad will happen to her and her mother" if she did not obey him. Man Su

Bar Pon then became fearful of the man's threats, and because she did not speak nor understand English, she was forced to follow his command. At the San Francisco International Airport, the man did all the talking in English. After clearing immigration and customs authorities, she was taken to an apartment (at 888 O'Farrell Street) in San Francisco where she saw other Thai/Burmese women who were housed in the same apartment unit.

At the apartment, Man Su Bar Pon met three other men (whom she called "ma") who were "watching" the place. The men told her that she and her mother would be harmed if she did not obey them. She was then forced to work in massage parlors without pay. She was told that she had to earn six thousand dollars because "she owed them" that amount. When she told the men that she wanted her freedom and that she wanted to go back to Thailand, they told her that she could only leave after she had paid off what she owed.

In December 1995, Man Su Bar Pon was arrested in a joint raid conducted by the FBI and the Immigration and Naturalization Service. She was charged in court for illegal entry and prostitution and faced deportation.

It was only during the court proceedings that Man Su Bar Pon found out that she was not born in Thailand, that she was actually born in Burma and that her real name was Man Su Bar Pon, not Somporn Supapon, which was what she had known all her life.

The Asian Women's Human Rights Council was requested to act as a consultant in Man Su Bar Pon's case by her lawyer, who was seeking political asylum for her to prevent her deportation to Burma. On May 29, 1998, Nelia Sancho, AWHRC Manila Office Coordinator, upon the invitation of Man Su Bar Pon's lawyer, appeared at the San Francisco Immigration Court as expert witness on trafficking, to prove that Man Su Bar Pon's case falls under the definition of trafficking, and that far from being a criminal, Man Su Bar Pon was a victim of human rights violations.

Using the definition adopted by the Global Alliance Against Traffick in Women (GAATW), trafficking in persons involves "all acts involved in the recruitment and/or transportation of a person within or across national borders for work or services by means of violence or threat of violence, abuse of authority or dominant position, debt-bondage, deception and other forms of coercion."

Clearly, Man Su Bar Pon's case contains the elements of coercion, deception, debt-bondage and threat of violence. She was deceived into agreeing to go to the United States with the false promise of work and remuneration for her work. She was deceived that she will be entering the US legally and then forced to use false documents. She was forced to work without pay. Her recruiters abused their dominant position, as they could speak English and she could not. And she was deprived of her freedom of movement and the right to leave her work and place to go back to Thailand.

AWHRC, in an affidavit executed by Nelia Sancho, enumerated these human rights violations committed against the person of Man Su Bar Pon as a victim of trafficking and likewise described the large-scale phenomenon of trafficking in women, particularly of Asian women to countries of the North, such as the United States, of which Man Su Bar Pon is only one victim.

As a result, the Immigration Court Judge of San Francisco is now expected to grant Man Su Bar Pon permanent resident status with visa in the United States.

Man Su Bar Pon's case exemplifies to a great extent the fate of many women trafficking victims. The majority of these women are from countries of the South or Third World, who suffer the poverty and powerlessness of being citizens of impoverished, maldeveloped countries, of being members of marginalized ethnic/racial groups and communities and of being women.



## **Cambodia Country Report**

Ms. Ek Virak

*Deputy Director, Ministry of Women's Affairs*

### **Situation Analysis of Trafficking in Women and Children for Sexuality and Other Exploitation Purposes in Cambodia**

In Cambodia, there are no comprehensive national statistics on the number of women and children who were trafficked for sexual and other exploitative purposes. According to the UNICEF report of 1995, the number of those who work directly in the sex industry (i.e. brothels) is estimated to be between 10,000 and 15,000 persons. The number of those who work in the sex industry, both direct and indirect has dropped dramatically since then. A recent report published by the Population Service International stated that in Kandal, Kampong Cham and Phnom Penh, there are 7,346 persons working in this industry (PSI, 1998, p. 1). The dramatic decrease seems to have been influenced by the decrease in the number of tourists, businessmen and other foreign visitors caused by the July 1998 incidence and the General Election of 1998. It was also found by the PSI study that the number of Vietnamese women who work in this industry is smaller than was expected.

The age of prostitutes is said to be getting younger and younger. In October 1992, CWDA reported that the minimum age of CSWs was 18 years. This figure dropped to 15 years when the next survey was done in April 1993. Human Rights Vigilance also undertook a survey in April 1995 and found that about 30% of them were below the age of 17 and the youngest one was found to be 12 (quoted in UNICEF, 1995, p. 4).

All these figures were collected from brothels which are easily accessible and operate openly. The UNICEF report suggests that there is a strong possibility that much younger children may be kept out of public sight, perhaps locked up in brothels or even in special safe houses (UNICEF, 1995, p. 5). These sites are difficult to survey due to their secretive nature. It can be assumed that under-aged prostitutes in these brothels are the ones who were lured and trafficked into the industry against their will.

### **Context Analysis of Trafficking in Women and Children for Sexual and Other Exploitative Purposes in Cambodia**

Qualitative data explaining what kind of families are most likely to have young children in prostitution are scarce, but it is generally believed that poverty and selling of girls are closely inter-linked. Recent Poverty Assessment undertaken by the Ministry of Planning points out that approximately half of the rural Cambodian population lives below the poverty line. Considering that the majority of the Cambodian population (approximately 85%) lives in rural areas, this is a large number.

Earlier NGO reports confirm a widely held view that girls in poorer provinces are more susceptible for trafficking. For example, Youth With a Mission (YWAM) states in its 1995 report that 91.7% of child sex workers they interviewed originated from either Kampong Cham, Prey Veng, Kandal and Battambang. The Vigilance Survey of 1995 also reports that most prostitutes they interviewed were from either Kampong Cham, Battambang, Svay Rieng, Prey Veng, Kandal or Takeo.

Since no census was undertaken to ascertain the place of origin of prostitutes, it is difficult to identify the complex interplay between poverty and trafficking precisely. But generally, it can



be said that families in severe poverty or in debt are more susceptible for fake offers of jobs for young daughters.

Matrilineal tradition of rural Cambodian society also places young daughters into feeling obliged to work for the family by doing whatever they can do. While many "trafficked" prostitutes claim that they are lured into this trade, it is strongly believed that they are sold into the trade by their parents or close relatives. Eldest daughters often feel this obligation strongly. In general, they are the first ones to be withdrawn from school so that younger siblings, often male, can go to school. Theravada Buddhism also helps girls to accept their inferior fate. Men play sacred roles in this religion by going into monkhood and accumulating merits. In this religious and cultural context, women's lives are perceived as of constant struggles or suffering. Low awareness of the general public on the issue of trafficking in women and children is another issue of concern. It is believed that the trafficking ring has deeply penetrated into the lowest level of Cambodian society. Various NGO reports also stated that these rings in form of pimps, procurers, and middle persons are closely associated with the police and other power structures of Cambodian society, thereby making the issue difficult to be discussed openly in the public sphere.

As explained, a complex interplay of all these factors continues to lead the issue to repeat its vicious cycle. The widespread incidence of poverty in rural Cambodia where the majority of Cambodians lives means that potentially more girls are exposed to risks of trafficking into prostitution and other exploitation unless serious interventions are being made.

### **Responses to the Problem**

So far, the following actions have been undertaken to meet the immediate needs of the victims.

#### **NGO Community**

- Provision of Multi-Purpose Shelters (material and legal assistance, skills training, social services and placement in foster families)
- Research Activities
- Participation in Investigations
- HIV prevention activities targeting prostitutes and the general public
- Advocacy

#### **Royal Government of Cambodia**

- Adoption of Legislation
- Law Enforcement
- Cambodian National Council for Children
- International Negotiation for Extradition Treaties
- Provision of shelter via Women's Centres at the Provincial Level
- Assistance for the Victims (alternative skills training, shelter and counseling/referral)
- HIV prevention activities targeting prostitutes and the general public

### **Limited Effects of the Current Programmes**

Existing programmes have brought about nominal results. However, these are not caused by the programme design per se, but mostly by some contextual characteristics which are peculiar to Cambodia itself as shown below.

- Low Level of Law Enforcement
- Prevailing Poverty
- Low Level of Public Awareness
- Insufficient Resource, Collaboration and Coordination

Mid-term and long-term actions addressing prevention of trafficking in women and children for sexual and other exploitation will be required.

### **Required Actions**

- **Increased Level of Law Enforcement**

While a good legislation has been adopted for a while, its implementation has been hampered with. The next step is to increase the level of law enforcement. A model province may need to be set up where both government agencies such as the police, Ministry of Interior, Ministry of Women's Affairs and Ministry of Social Affairs, Labour and Veteran Affairs and NGOs will perform coordinated actions for law enforcement. Strong initiatives will be required by the Governor's Office as well as the Royal Government of Cambodia from Phnom Penh.

- **Adoption of Awareness-Raising Strategy**

Case studies by the trafficked victims indicate that either parents, relatives or neighbours sold them knowing that girls will be working in brothels as prostitutes. Existing research keeps silent on this aspect. There is a strong need to plan and implement community based awareness-raising activities persuading parents that they should not sell their children.

Such awareness-raising activities can take place in combination with similar awareness-raising activities aimed to increase the enrollment of girl children at school, too. As ESCAP reports demonstrate, the Kamla campaign in Northern Thailand brought a degree of success impeding girls to be lured into prostitution by targeting not only girls, but also teachers, community leaders as well as parents. Issues such as HIV should also be integrated into the IEC materials like cartoons, books, leaflets, TV spots and radio.

- **Poverty Alleviation**

The above stated campaigns need to be accompanied by poverty alleviation programmes. As anecdotal records demonstrate, most victims of trafficking originate from provinces in poverty. Efforts must be made immediately to plan and implement poverty alleviation programmes with strong components focused on this issue like public-awareness campaigns, human rights education, community motivation as well as strengthening basic education quality.

- **Collaboration/Coordination/Networking**

Activities by NGO and the Royal Government need to be coordinated according to an agreed plan of action. Resources, both human and financial, need to be allocated in order to meet the needs under the plan of action. Collaboration with international and regional NGO counterparts is certainly required for suppressing cross-border trafficking incidents and joint research/advocacy activities.

## **Cambodian Women's Crisis Center (CWCC)**

**Ms. Chanthol Oung**

*Executive Director, CWCC, Phnom Penh*

### **SITUATIONAL ANALYSIS ON TRAFFICKING IN WOMEN AND CHILDREN, POLITICAL WILL TO COMBAT THE ISSUE AND CWCC'S INTERVENTION**

#### **I. Background to the Problem**

One of the most pervasive and severe forms of violence against women and girls in Cambodia is sexual trafficking and sexual exploitation. CWCC's clients who have escaped from Cambodian brothels relate harrowing tales of trafficking across borders, abductions, deceptions, severe abuse and slave-like conditions. Their courageous stories are tragic, and the epidemic scale on which these stories are repeated daily in Cambodia and around the globe not only demands attention but immediate action.

Historically, prostitution was openly practiced in Cambodia before 1975. However, the Khmer Rouge genocide and the following years of isolation during the communist-socialist regime severely reduced the level of prostitution in Cambodia. In 1991, Cambodia began emerging from over two decades of war and strife. This period was marked by the arrival of the United Nations Transitional Authority in Cambodia (UNTAC), relaxation of border controls, an influx of foreign currency, increased tourism, liberalization of the economy, and tragically, an explosive growth in sexual trafficking and prostitution in Cambodia.

In 1991, more than 20,000 UNTAC personnel were dispatched to Cambodia to supervise the Paris Peace Agreement and organize the 1993 elections. By 1992, researchers estimated that there were also 20,000 sex workers in Phnom Penh. Although this number was nearly cut in half after the departure of UNTAC personnel, the numbers have rapidly climbed to previous levels. In 1994, public health officials estimated that more than 17,000 women and children were prostituted in Phnom Penh alone. The majority of sex workers in Cambodia are Khmer, with approximately 35% foreign sex workers comprised primarily of Vietnamese and Chinese with only a few Thai and Filipino women and children.

#### **II. Sexual Trafficking / Exploitation in Cambodia**

A 1995 survey conducted by Human Rights Vigilance of Cambodia, interviewed over six-thousand prostituted women and children. The group found that 30.7% were below the age of 17. This number may be even higher given that young sex workers are typically kept hidden. Since 1995, younger and younger women are being sought for the sex trade, with recent reports of eight year old children working in brothels. This desire for youth is often fuelled by a cultural belief in the restorative powers of sex with a virgin and the mistaken reasoning that the younger the sex worker the less likely the chance of infection by the HIV virus.

##### **A. Trafficking In and Out of Cambodia**

The Regional traffic of women and children follows routes via Singapore, Malaysia, China, and more prevalingly, Vietnam and Thailand. The actors include local and foreign business investors, recruiters, pimps, tourists, local clients, and brothel owners and managers. Often the sellers are known to the victim; parents, relatives, neighbors and friends substantially contribute to the sex trade by selling family members and friends into the industry.

This is confirmed by the testimony of CWCC's clients. The vast majority of our clients have been tricked or deceived and sold into prostitution by someone they trusted or knew. They are typically poor, rural women and children who are easily enticed by offers of job or visits to the city. Hence, our clients are typically trafficked from a rural province to an urban center located in a different province. Removing them from their province makes it extremely difficult for their families to trace them. Approximately 7% of CWCC's clients were trafficked from Phnom Penh to a brothel in Phnom Penh, 63% came from a provincial rural area and the remaining 20% came from Vietnam.

In addition, thousands of Cambodian women and children are trafficked to Thailand, Malaysia, and Taiwan to work as prostitutes, domestic workers, construction workers, farmers and beggars. The Chief of Border Police estimated that more than 400 Cambodians are deported weekly from Thailand. Approximately half of these illegal migrants are women and children, the majority of whom were deceived and forced to work in slave-like conditions. Traffickers convince their prey that they can go to Thailand and make a lot of money. For this privilege they must pay the trafficker over \$100 for a guide and transportation to Bangkok. To pay for this trip, the person will sell their rice fields, houses, farm lands and property. Hence, if when they are later caught by Thai authorities and deported they have nothing to return to and become homeless.

CWCC also visited a detention center in Thailand. Upon arrival, we witnessed at least three large busses filled with Cambodians who were being driven to the border. Approximately, half were women and children. We approached the bus to talk to the people, they were crying while they told me about their life in Thailand. They were happy to return to Cambodia but did not know how they would survive upon their return.

We also spoke with those awaiting deportation. There were around 300 women and children crowded in cells that were partitioned off with wire. They slept on the ground like sardines. Some of the women were kept in these conditions while pregnant and had even delivered in the deportation center. They had little food, lived under un-hygienic conditions and were sometimes beaten by the guards. Tragically, many children lost their parents in Thailand because their parent were arrested in the workplace. The parents were not allowed to get their children before being removed to the center. A great fear of parents and children is that they will not be able to locate their family members. There were also rumors that some children were brought from the detention center to become workers for Thai business and families.

CWCC is planning a media campaign to educate Cambodians about the dangers of illegal migration and trafficking to Thailand.

## **B. Conditions in Cambodian Brothels**

Women and children are sold to brothel owners for as cheap as \$50 and for more than \$300. If she is pretty and a virgin she commands a higher price. The brothel owner informs the woman or child that she is in 'debt' for the amount he or she paid for her. However, the brothel owner typically finds ways to increase the 'debt' of the woman or child. For example, if they became sick, the cost of their treatment is added to their 'debt', often with interest. They are usually sold to several different brothels and each new sale begins the cycle of bonded labor again. Because of the prostitute's fear

of the brothel owner, they rarely question his or her accounting skills. The 'debt' is usually paid off when the woman or child is no longer valuable to the brothel owner.

After arriving at the brothel, CWCC's clients were typically locked in a room. If they refused to serve the clients of the brothel, the brothel manager tortured the women and children until they relented. Our clients related instances of severe beatings, sometimes with electric wires, sticks, water pumps, and confinements in locked, dark rooms without food.

These beatings continues throughout the length of the internment in the brothel. The women and children were forced to wear sexy clothing and smile to entice clients to the brothel. If the brothel received few clients, they were blamed and beaten. Some of the women and children reported beatings up to five times a day.

The first time one of the women or children serviced a brothel client, they were usually taken to a hotel and hired out for a week for approximately \$300-\$600. During the following two weeks, the rate they could command was significantly reduced to \$10 for a twenty minute time period. After this initial period, the rate dropped to one or two dollars per brothel client.

Because all of our clients were sold into the sex trade, they did not receive a percentage of the income they generated. They received only food from the owner. Clients would often give them small tips, which they used to buy make-up, medicine or snacks.

Some brothel owners did not allow the women and children to keep even this money and they took the tips and accused them of stealing from the brothel. Other brothel owners said they only wanted to borrow the tips, but they never returned the money. Tips were also used to compensate the brothel owners. If more than the allotted twenty minutes was spent with a particular clients, the sex workers reported having to reimburse the brothel owner for the overtime. The twenty minute limit was set to frustrate any bonding between the brothel client and the prostituted woman or child.

The working hours were grueling, the brothel was open twenty-four hours a day and the women and children usually worked from 9:00 am to 3:00 am. The average number of clients each day was 5 to 7; two particularly attractive sex workers reported up to clients a day.

The woman and children were forced to have sex while they were ill and during their menstrual periods. Although they were aware of the necessity of protected sex, clients often refused to wear a condom. The brothel clients threatened to beat them or tell the owner if the women and children refused to have unprotected sex. Some men who wore condoms wore a type that had a rough surface at the tip which injured the sex workers.

In addition to the severe abuse endured from the brothel clients, many of the women and children interviewed stated that they were repeatedly raped by the brothel owner. They described this aspect of the abuse as the most degrading because they were forced to live with the abuser. Often, the woman or child would finish her exhausting day of work only to be awakened by the owner, relatives of the owner or a guard getting on top of her.

During the day, the women and children were kept under lock and key, they had no freedom to leave the brothel or visit their friends and family. Most did not share their problems with each other or with clients for fear of reprisals. If there were no clients at the brothel, the sex workers cleaned, cooked, washed the owners clothing and looked after his or her children. These slave-like and inhuman conditions took an extreme toll on the women and children's physical and mental health.

### **C. Physical and Mental Health**

While in the brothel, the women and children were sometimes injured by beatings. In addition to bruises and welts, one woman suffered a concussion after a brothel owner used a brick to beat her about the head.

Because virgins are highly valued, some reports note that sex workers are forced to undergo dangerous operations to re-sew their hymens. The health of the women and children was usually ignored, with very few having access to treatment for sexually transmitted diseases. When the women and children were ill or injured the brothel owner typically purchased medicine from a street stall for the sex workers. If the illness was serious, the owner may request a nurse or doctor to visit the brothel or the woman or child may simply be sold to another brothel. Most of the women coming to CWCC have an STD -- often at an advanced stage. Shockingly, almost fifty-percent of those tested for the HIV virus tested positive.

Perhaps most disturbing, but not surprising, is the fact that many of our clients attempted to commit suicide while they were in the brothel, often more than once. All reported feeling hopeless each and every day they spent within the walls of the brothel. They reported having trouble sleeping in the brothel and suffered from nightmares on almost a daily basis. They dreamed of falling into a well or a pit of mud, falling from a building, being attacked by a ghost, being killed, committing suicide and being beaten.

After escaping from the brothel, the women and children still reported having nightmares, although less often. Their fears during the daytime turned from beatings and rape to fears about being scorned by their families, communities, and former boyfriends. Almost all did not wish to marry because they had already lost their virginity and therefore felt that they had no value. Although they wanted to return home, they were anxious about losing their face and their honour and being discriminated against for being prostituted.

### **III. Political Wills, Policies, and Legislation to Combat Sexual Exploitation**

Cambodia has legal obligations to combat the sexual exploitation of women and children. According to the Constitution of the Kingdom of Cambodia "The Commerce of Human Beings, their exploitation by prostitution and obscenity which affects the reputation woman shall be prohibited(Article 46)." Cambodia is also a signatory to the Women's Convention. There are two laws currently in effect in Cambodia that specifically address the issue of sex trafficking. The first was drafted by the United Nations Transitional Authority in Cambodia which organized the 1993 elections. The UNTAC law is in effect until it is abrogated by new legislation. Article 42(3) of this code states that "any person who procures, entices or leads away for the purpose of prostitution, or sexually exploits a minor, even with the consent of the minor, shall be liable to a term of imprisonment of two to six years." In 1996, Cambodia's National Assembly passed a law to specifically address the trafficking of human persons entitled "Law on the Suppression of the Kidnapping and Trafficking/Sales of Human Persons and Exploitation of Human Persons." In brief, the Trafficking Law subjects anyone who lures a human person for the purpose of trafficking/sale or for prostitution to a term of imprisonment from (15) to (20) years. Pimps, brothel owners, those who share benefits obtained from prostitution or open a place for committing a debauchery or obscene act are also subject to imprisonment.

To-date, it is not clear how widely used either of these two laws are to punish those that sexually traffick or exploit women and children. Article 9 of the Trafficking Law states that a sub-decree will provide detailed instructions of how to apply the law. Many members of the judiciary assumed

that they could not use the law unless a sub-decree was issued. Moreover, other members were not even aware that such a law existed. To-date, there have been no in-depth studies about whether the Trafficking Law is being used or even if all members of the judiciary have a copy of the law and understand its purpose.

This lack of knowledge about the law or use of the law is not limited to the judiciary. Many members of the police do not know that sexual trafficking is against the law. Or, even if they are aware that there is a law, they do not understand that a contract to sell a woman or child is illegal. In Cambodia, a written contract, regardless of the subject matter, is given the weight of law. Hence, the police may not intervene in such cases because they are worried that if they assist the trafficked woman they would be violating a written contract and breaking the law. Hence, although adequate laws exist to begin tackling the issue, the government lacks the political will to educate about the existence of these laws and ensure their enforcement.

Although there are problems regarding knowledge of the law, there have been examples of government action in this area. In November 1997, the municipality ordered the police to begin police raids in brothels. The stated goal was to eradicate the brothels in Phnom Penh. This measure was not new, in the past the government had also carried out police raids in brothels. Part of the political will to raid the brothels may have been to drive the brothels from visible areas of the city. Similar campaigns were done to remove the homeless from the streets. They are rounded up before important people come to the city and taken to the site about 50 kilometers out of the city. These measures have the temporary impact of making the city look more respectable but do little to curb the problems.

Some positive developments occurred during the police raids. In the past, NGOs were not informed of the raids and were not able to assist the women who were removed from the brothels. This changed during the police raids of November and December; the government began contacting NGOs were still not contacted before the police raids began to discuss the best possible course to pursue or even if police raids were the best option to combat the problem.

The vice-mayor of the city, Chea Sophara, however, did call a meeting with appropriate NGOs and discussed how to improve the raids and work in cooperation with the service NGOs. In this meeting, he stated that television spot CWCC produced about sex trafficking had woken him up to the issue and sensitized him. He said he was strongly committed to ending all forced prostitution in a one-month period. The meeting was attended by approximately 60 representatives from various governmental ministries, district head offices, police officials and NGOs.

He instructed the district leaders and police chief to train the police and the brothel owners on the laws related to sex trafficking to rescue children who were victims of forced prostitution, to arrest the brothel owners, to immediately bring culprits to justice, to refer the prostitutes to vocational training or reintegrate them with their families. The mayor also promised to assist them with a job at garment factories after they received basic sewing skills.

During later meetings, NGOs and government officials shared information about problems associated with the raids. NGOs reports incidents of the police abusing the women and children that they took into custody, taking money from the women and children, not allowing the women and children to gather their belongings, not arresting the brothel owner, being paid bribes to release the prettiest girls back to the brothel owner, and accepting bribes to inform where the women and children had been taken which resulted in brothel owners harassing service providers.

The police stated that they had not received training on the law. They also reported that because armed men guarded the brothels there was grave danger in carrying out the directive to raid the brothels. They also reported frustrations at removing women from the brothels and seeing them turn-up again at raids on other brothels. Also, there were problems with properly identifying who

the owner of the brothel was. Proper investigations were not carried out beforehand. Later, prosecutors complained that there was not enough evidence to convict. Women and children taken from the brothels were afraid or unwilling to identify the owner.

Periodic raids lasted for approximately two months. Infrequent raids still occur. Many of the brothels were driven to another location but it is difficult to determine how many actually ceased operation. One circle of the raids was that if frustrated health workers from reaching out to prostituted women and children by driving some of the brothels underground to a new location. Others noted that the raids also had positive elements, such as a response by the government and more open communication with NGOs.

There are numerous reports that the police and military facilitate the local and cross-border trafficking of women and children at every stage, including abduction rackets and the ownership and protection of brothels. The temptation is great for underpaid military and police officials whose salary is approximately \$20 a month. This strong police and military presence also intimidates sex workers and resigns them to their situation. It also makes efforts by individuals and others more dangerous.

One area the government has taken positive action is coordinating with UNICEF to create a shelter for children who are victims of forced prostitution. Efforts to prevent and deter sex trafficking and sexual exploitation of women and children, however, are lacking.

#### **IV. Cambodian Women's Crisis Center's Intervention**

**A. Direct Services** - including safe confidential shelter with necessity, counselling, medical treatment and health education, literacy and life skill training, vocational skills and job assistance.

**B. Reintegration, Repatriation and follow-up** - if the trafficked women and children wanted to go back to their home town after escaped or rescued from the brothels, CWCC's staff contacts parents or relatives to take them back. In case the relatives want to have them back but lack of means to come to city to take them back, CWCC's staff accompanied them home. Usually, we do three month-follow-up to see their living condition and try to find ways to further helping them in community by marching to existing program in the village. Confidentiality is our principle for this program.

**C. Monitoring and Legal assistance** - CWCC is monitoring and documenting hundreds of cases of trafficking, domestic violence and rape. We are helping victims to access to legal aid and social services. More importantly, we are trying to work closely with the police and judiciary staff to provide safety to victims and family and to take perpetrators to justice. This year we won two cases in the court. In the first case the pimp was convicted to three years of imprisonment and the second one a brothel owner was convicted to 10 years of imprisonment. Few more cases are in the middle of court proceedings.

**D. Research** - CWCC is conducting research on legal responses, attitude and behavior of law enforcement officers and judiciary staff toward trafficking issues and victims. It will be ready for dissemination at the end of this month. The rough result shows that 60% of the targets are not aware of existing laws against trafficking. We hope that it would be a very good tool for us to identify the next program of action, including legal campaigns.



- E. Advocacy** - CWCC produced a video and a radio program national broadcasting through TV on the issue of trafficking rural women on prostitution in the city last year. We also organised workshops and seminars to sensitise the issue. We lobbied political parties to put the issue in their platform of action during the national electoral campaign. Now we are producing a video on trafficking women and children to work as prostitutes, beggars, construction workers, porters etc. in Thailand. We aim to inform them about tricks and risks in the city and Thailand before they make the decision to migrate.
- F. Community Organisation on VAW, including Trafficking** - CWCC has just project funded by UNIFEM to sensitise the community about and to organise community to response to the issue of VAW which includes trafficking. We believe that only communities are able to prevent, project and response to the issues effectively, sufficiently and promptly.

## **V. Conclusion**

To conclude, a concerted efforts in Cambodia must be made to address this issue. Political will needs to be directed at strategies that include training of law enforcement officials and the judiciary, a comprehensive and long-term research into the problem, improved dissemination of information, joint interventions and referrals, strengthening of the social net, establishing rural development program to alleviate poverty, health education, and both local and international campaigns against the sexual exploitation of women and children.

However, even this is not enough. As is all forms of violence against women, sexual exploitation is a manifestation of the unequal distribution of power between men and women. Globally and locally; solutions to the problem must take into consideration the relationship between sexual inequality and violence. Governments and communities must strive to provide women with equal access to education, healthcare, food, shelter, political and social participation and employment opportunities. Together, we must work to achieve these goals and the recognition that women's rights are human rights.

## **China Country Report**

**Mr. Zhang Yimin**

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### **Strengthening Laws and Crack Down on Trafficking in Women**

Trafficking in women is a serious criminal offence. It is a savage, ignorant and evil social phenomenon which infringes upon women's human rights so seriously that the individual involved, her family and society at large are all harmed. It is, therefore, a common task for all countries in the world to eliminate this offence.

As a socialist country, China's laws ensure that women have the same status and dignity as men. In working against trafficking, the Chinese government depends on legal, administrative, and educational methods in its attempt to eliminate discrimination against women so that women's rights can be fully protected.

#### *1. The development and present situation of trafficking in women in China*

Historically, the practice of trafficking in women was very serious before the establishment of the People's Republic of China. After the foundation of the new China in 1949, under the leadership of the Chinese government, the police actively cracked down on this crime so that it disappeared for a long period of time. In the 1970s, this crime reappeared in poor villages and remote areas. At present, this crime is mainly confined to the Chinese countryside. Most of the women victims live in poor mountain areas of South-West China and remote villages. Most of them are compelled to become the wives of buyers and mere tools to bear children.

In recent years, some traffickers have collaborated with foreigners. They abduct young women around frontiers out of China and sell them to foreign prostituting gangs. For example, there were almost one hundred Chinese women victims who were rescued by the police in Thailand and were subsequently sent back to China by a charitable Thai organization in 1995 and 1996. The Shanghai Police co-operated with the Macau Police in saving six young women from Shanghai in August 1997 who had been abducted to Macau.

#### *2. Strengthening of legislation and perfection of the law to protect women's rights*

For many years, the Chinese government has dedicated itself to protect women's human rights and to improve their legal benefits by amending relevant legislation. In September 1991, the Standing Committee of the National People's Congress passed "The Decision on Firmly Punishing Criminals who Traffic in Women and Children". In April 1992, the fifth meeting of the 7<sup>th</sup> National People's Congress issued "The Law Protecting Women's Rights and Benefits of the People's Republic of China". It clearly stipulates that "it is forbidden to traffick in and kidnap women; it is forbidden to buy and abduct and kidnap women; it is the responsibility of the government to take measures to rescue abducted and kidnapped women; nobody is allowed to discriminate rescued women, and the local governments should make arrangements for their living." In March 1997, the new Criminal Law which was passed during the fifth meeting of the 8<sup>th</sup> National People's Congress made many adjustments and provided for harsher punishment regulations to crack down on criminals. Moreover, the new Criminal Law points out that "all levels of government are responsible for saving women and children who are abducted or kidnapped. Whoever obstructs functionaries of a State organ in their efforts to rescue sold women or children shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance or be fined."

### *3. Chinese action against trafficking in women*

The Chinese government has been giving much attention to the cracking down on crimes of trafficking in women. Under the leadership of the State Council, the local governments have made many achievements.

- A. After the "Convention of Eliminating all kinds of Discrimination Against Women" was completed, China fulfilled the rules regarding the protection of women's rights in a number of ways. During the last ten years, five conferences were organised on the crack down on trafficking, convened by the Chinese Central Government. Chinese leaders have also given several important instructions regarding the crack down on trafficking. In 1995, the Chinese government issued the "Chinese Women's Development Outline 1995-2000" and allocated funds to be used on women's rescue.
- B. The police has also been active in launching its combat against the crimes of trafficking in women. Three special combat actions were launched from 1992 to 1996 in vulnerable areas where this crime was particularly serious. Tens of thousands of officers participated in these actions by way of rescuing women victims, arresting suspects and clearing a number of major cases. As a result, the number of recorded cases were reduced during the last six years (i.e. since 1992). Thus, the increase in this kind of criminal cases was brought under effective control.
- C. To eliminate the basis of trafficking in women, the Chinese government is also trying to further develop the economy in order to reduce the economic disparity in the country's many different areas. After opening and reforming the country, the Chinese government has positively been developing the economy. From 1978 to 1995, the percentage of the poor people in China and the world decreased from 25% to 5%.
- D. The government has also been active in propagating the laws and in educating women how to protect themselves by way of legislation. In this way, more and more people are being educated through exhibitions, distribution of booklets and consultations on streets. In May 1995, the Ministry of Public Security, the All-China Women's Federation and the United Nations' Children Fund organised training "on Laws for the Protection of Women and Children". More than 40 Policemen from all over the country were trained.

### *4. Help for women victims to rehabilitate themselves*

The Police Women's Federation, Civil Administration and the Administration of Justice act in close coordination to rescue and send back women victims. The local government reintegrates the women victims and them to find alternative ways of income.

The Chinese representative is very honoured by having been given the opportunity to attend this conference which is believed to play an active role in the protection of women's legal rights and in the co-operation in cracking down on violence against women. It advances communication on cross-border trafficking in women and strengthen coordination in the Asia-Pacific region. China suggests that every country should exchange laws and policies, as well as information and clues of cross-border trafficking in women so that effective crack-down can be achieved. China would like to cooperate with any other country and will join the efforts made in protecting women's rights and the promotion of civilization.

## **Indonesia Country Report**

**Ms. Lies Siregar**

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### ***Trafficking in Women - Practice and Policy Law in Indonesia***

#### **1. Introduction**

Based on the Beijing Platform for Action adopted at the Fourth World Conference in Women, the issue of Trafficking in women has become one of the topics in the agenda of the Working Group of the Ministry for the Role of Women of the Republic of Indonesia.

The global financial crisis has brought much suffering to the people in Indonesia, most of all women and children. Financial loss of many industries has caused the rise in unemployment, with women and young girls being hit the hardest. As a result, various crimes using children, girls and women as commercialised objects have emerged, including the trafficking of women. Although crimes of trafficking in women exist, they have not yet come to the surface.

Recently, an attempt of trafficking in 114 girls under the age of 18 years on the Batam Island has been successfully stopped by the police. These girls had been deceived with promises of getting good jobs in factories in the Batam area, but instead they were forced to work as prostitutes.

Many other cases such as "Mail-Order-Brides" exist which are suspected to be crimes of trafficking in women. But as they could not be proven to be crimes, the government has not competence in dealing with such cases as incidences of trafficking.

#### **1. Practices of trafficking in women**

The issue of trafficking in women is one about to which little is known in Indonesia. Various problems of migrant women workers have been responded to by the Government and NGOs, and as far as we know there appeared to be no problem leading to the trafficking in women or prostitution.

But since 1997, many women from West Kalimantan migrated to Taiwan as wives of Taiwanese citizens. These women are pre-dominantly "mail-order-brides" who were chosen with the help of agencies. Without the attendance of their husbands-to-be, they were registered as "married", and then immediately moved to Taiwan after acquiring Taiwanese citizenship.

For these women, this was one way to alleviate their family's poverty. Nevertheless, it has to be noted that there are many mutually satisfying relationships created through these marriages and it would be wrong to seek to limit or to control this form of "trade in women". But since the number of "marriages" has increased every year, we should be aware and give serious attention to this issue because it could potentially lead to trade in women.

In the region itself, the practice of deceiving girls/women from villages by promising them work in urban areas or other places but then forcing them to work as prostitutes is fairly wide-spread.

NGOs have been active in assisting and protecting the victims through crisis centers. The Ministry for the Role of Women, in accordance with its functions as a coordinating institution, gives advocacy and has coordinated with other departments/institutions and NGOs concerning

legal protection for women through the Legal Working Groups of the Ministry for the Role of Women.

In the effort to overcome and solve problems of violence against women and trafficking in women, the Ministry for the Role of Women has made programmes as follows:

1. Social campaign to support women mentally and to strengthen their self-confidence, especially targetting young women and girls.
2. Giving advocacy and protection to women/girls who had become victims of crimes.
3. Establishing a Joint Team on Facts Finding of Crimes Against Women, including practices of trafficking in women.
4. Developing a legal Working Group to evaluate and discuss legal programs on trafficking in women.
5. Legislation drafting on trafficking in women and violence against women.

### **3. Policies and Law**

Because trafficking in women is seen as an "undercover case", at the moment there seem to be no policies and regulations on trafficking in women.

Formerly, the Penal Code – a continuation of Dutch colonialism – regulated matters on "white slavery", but has been abolished since the renewal of the Code.

At present, the National Penal Code still uses articles on Deception and Abduction which are ineffective to solve problems of trafficking in women.

### **4. Conclusion**

Trafficking in women is still an "undercover issue" in Indonesia. Many cases related to prostitution could lead to "trade in women" including cases of "mail order" brides and should, therefore, be more controlled.

Since the adoption at the Beijing platform for Action at the Fourth world conference in women, Indonesia has given serious attention to matters related to the trafficking in women.

Policies and new regulations concerning trafficking in women are now being discussed and planned to be drafted. Research on the cases are important to yield information and data.

In practice, the Ministry for the Role of Women as coordinator has given advocacy by working together with other departments/institutions and NGOs in solving cases and giving protection to women as victims of violence, including trafficking.

Social campaigning for mental support, partly by way of strengthening women's self-confidence, is actively carried out by the Ministry for the Role of Women through information leaflets and mass media.

At the international level, we ought to look at this issue as one part of the Extradition Crimes.

## **Myanmar Country Report**

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### **Introduction**

The Union of Myanmar is situated in South East Asia, sharing borders with China, Laos and Thailand in the east and India and Bangladesh in the west. It is the largest country in Southeast Asia with a population of an estimated 45.57 million in 1995-97, an increase of 0.83 million with a growth rate of 1.84% over 1995-96. Of the total population of the estimated 45.57 million in 1996-97, the male population was 22.63 million or 49.66% and the female population was 22.94 million or 50.34%. The total fertility rate is 3.5 and the rate of population growth is 1.87. According to the census of 1983, the literacy rate stands at 71.3%.

The family is the basic social group unit tied together by the bonds of kinship and marriage. Ideally the family provides its members with protection, companionship, security and socialization. The head of the household is the father, but it is the mother who plays a major role in rearing children.

In Myanmar society, traditions and customs expect a woman to control the purse, to prepare food, make clothing and look after children. The children are regarded as precious treasures regardless of sex.

Myanmar women and girls have been well protected not only by traditions but also by laws. Myanmar society does not accept immoral ways of earning money. But because of false, but seemingly innocent, promises of well groomed traffickers who seem to offer better job opportunities in another country, there are cases of trafficking of Myanmar women to neighbouring countries.

A Myanmar delegation attended the Fourth World Conference on Women, held in Beijing in 1995. The government of Myanmar is committed to adopt the Beijing Platform for Action and to implement the Conference's programmes in accord with its political, economic and social objectives. It also recognizes the important role of women in social development. Since Myanmar is striving towards the emergence of a peaceful, modern and developed nation, the establishment of a national institution, namely the Women's Affairs Committee, will further enhance the participation of women in both social and national development.

### **Protection of women in trafficking**

There are strong legal enforcement practices and tough penalties imposed on procurers and others who profit from the exploitation of prostitutes (10 years imprisonment and a fine). The legal protection for all forms of sexual exploitation and abuse in Myanmar include:

- a. The Suppression of Prostitution Act of 1949. In Myanmar, prostitution itself is not illegal, however, soliciting ("seduction") in public is. It is illegal to force or entice a woman into prostitution and to keep a brothel. There are no provisions in the law to promote disease control among prostitutes, e.g. no licensing system, although medical treatment may be given to a prostitute sentenced under the seduction provision.
- b. The Child Law of 1993 contains many provisions to protect children from exploitation, abuse, sale, etc., and to ensure a child's health and well-being. A problem which remains may be an absence of rules and regulations to enforce the provisions of this law.

- c. The Penal Code of 1860. Various sections refer to offenses against children such as procuring of minor girls, importation of girls from overseas, selling or buying of minors for the purpose of prostitution.

#### *The Law Amending the Suppression of Prostitution Act of 1949*

The State Peace and Development Council enacted the Law amending the Suppression of Prostitution Act of 1949 on 6 April 1998 to eliminate pimps who earned a living by running prostitution and owners of brothels.

Sub-section 2 of the Suppression of Prostitution Act of 1949 is substituted as follows:

- (a) "Brothels means any house, building, room, any kind of vehicle/vessel/aircraft, all places habitually used for the purpose of prostitution or used with reference to any kind of business for the purpose of prostitution.

Sub-section 1 of Section 5 and Section 8 were also amended.

The Section 3 of the Act provides that whoever, in any public street or public place within sight or earshot of any such street or place, whether from within or without any house, building, room, vessel, vehicle (a) by words, gestures, willful and indecent exposure of her person or otherwise lures or attempts to lure for the purpose of prostitution, or (b) solicits, molests, prevents or approaches for the purpose of prostitution shall be punished with rigorous imprisonment for a term which may extend to a period not less than one year and not more than three years. If the convicted person is a woman, such women shall be punished with imprisonment by being detained in a prescribed centre.

Section 6 provides that whoever procures any women to become a prostitute or who, with intent that she may for the purpose of prostitution become the inmate of a brothel, persuade a woman to leave her usual place of abode shall be punished with rigorous imprisonment for a term which may extend to a period not less than one year and not more than three years.

Section 12 (1) provides that whoever detains a woman, whether a prostitute or not against her will in a house, building, room, vessel, vehicle or any other place where living is earned by prostitution or in any part thereof; or in a house etc. with the intention of using women in an illicit intercourse with any man other than her lawful husband or for any immoral purpose shall be punished with rigorous imprisonment for a term which may extend to three years.

#### *The Child Law of 1993*

The Child Law of 1993 promulgated by the State Law and Order Restoration Council Law No. 9/93, contains many provisions to protect children from exploitation, abuse, sale, etc.

Section 66 provides that whoever commits the following acts shall be punished upon conviction with imprisonment for a term which may extend to 2 years or with a fine which may extend to kyats 10,000 or with both:

- ignoring knowingly that a girl under his guardianship who has not attained the age of 16 is earning a livelihood through prostitution
- permitting a child under his guardianship to live together or to consort with a person who earns a livelihood by prostitution
- using a child for pornographic cinema, video, television or photography.

Section 17 of the Child Law provides that every child shall have the right to be adopted in accordance with the law, but the adoption shall be in the interests of the child. The adoptive parents shall be responsible for the care and custody of the child to ensure that there is no abduction to a foreign country, sale or trafficking, unlawful exploitation, unlawful employment maltreatment, pernicious deeds and illegal acts.

### *The Penal Code of 1860*

The Penal Code of 1860 has various sections referring to offences against children such as procuring of minor girls, importation of girls from overseas, selling or buying of minors for purposes of prostitution.

Section 372 provides that whoever sells, lets to hire or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to be fined.

Section 373 provides that whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to a fine.

Section 363 provides that whoever kidnaps any persons from the Union of Myanmar or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to a fine.

Section 366 and 366A also provide that whoever kidnaps or abducts women to marry any person against her will shall be punished with imprisonment for a term which may extend to ten years.

Section 367, 370 and 371 provide that the imports, exports, removals, buying, selling or disposal of any person as a slave or the acceptance, receipt or detention of any person against her will shall be punished with imprisonment which may extend to seven years. In Myanmar all the offenders have been penalized according to the existing laws. The victims of trafficking are sometimes not penalized and sometimes penalized nominally depending on the nature of the cases.

For women who were apprehended under the Suppression of Prostitution Act of 1949, four Adult Women Vocational Training schools have been established under the Ministry of Social Welfare, Relief and Settlement. Another two Women's Development Centres have been opened for women of 18 years old and above who are for various reasons. Volunteer organizations opened six women centres throughout the country for their rehabilitation. A creative rehabilitation plan was set up by AFXB based on individual aspirations of the young women, their capacities, health conditions and economic realities. The special rehabilitation team for the victims include personnel from the Health Department, the Social Welfare Department, the Myanmar Police Force and the Immigration and Population Department. The victims have been provided with medical treatment, counselling service and social support before reintegration into society.<sup>1</sup>

### **Prevention of Trafficking in Women**

The prevention measures for women in trafficking are awareness raising programmes, vocational training activities, income generation, non-formal education and HIV/AIDS prevention with the cooperation of GOs and NGOs.

The Department of Social Welfare conducts domestic science training courses in the States and Divisions. The main objective of these training programmes are for young women and



girls to be able to carry out income-generating activities, to have some knowledge of home management and also care for family members.

The Ministry of Information has established libraries where young women and girls have access to books, journals and other publications which contain news and information on social affairs, religion, health, sports, etc. which would have a positive effect on their moral and physical development.

The Ministry of Immigration and Population has also instituted measures whereby legal migrant women are carefully screened by a special board so that they do not become victims of traffickers. In the Eastern Shan States, the regional command has recently imposed restrictions on girls under 25 years of age travelling across the border into Thailand, in the hope of curbing the trade. Young women between the ages of 16 to 25 years are not allowed to cross the border unless accompanied by a legal guardian. This kind of measure, however, has limited effectiveness due to the long and porous border which enables people to cross the border without being detected.

The fight against HIV/AIDS has been given top priority by the Government of Myanmar. Under the guidance of the National Health Committee, HIV/AIDS prevention and control activities are being implemented as a serious national concern. Recognizing the importance of dealing with this problem in a multisectoral approach, the National AIDS Committee was formed in 1989 headed by the Minister for Health and comprising of high level decision makers from various ministries and non-governmental organizations. Since women and girls who are at risk of being trafficked are threatened by HIV/AIDS, the Ministry of Health is undertaking HIV interventions with special focus on the border areas.

The Myanmar National Working Committee for Women's Affairs has successfully held advocacy meetings in five states and divisions. Each state and division, besides implementing the various areas, has also chosen a critical area of concern which they will be focusing their attention on.

Under the supervision and guidance of states and division committees on the rights on the child, the Myanmar police force is taking action against the trafficking and abuse of children under the Child Law, the Penal Code and the Special Laws. Attention is given to the priority in the border areas to suppress and arrest the brothel and trafficking of children by giving maximum punishment to them under the law. Awareness raising meetings include subjects such as child abuse, neglect and trafficking which were held in state and division committees with the participation of non-governmental organizations and local populace.

The Myanmar Maternal and Child Welfare Association, a local NGO, is also involved in preventative activities by:

- providing opportunities for formal education to young girls who would otherwise drop out of school by means of scholarships
- providing vocational training for young girls and women (usually sewing, juice and jam production, cookery lessons etc.)
- providing credit and loans on a small scale to women for income-generating activities.

It is thus attempting to combat trafficking by means of poverty alleviation and income-generation. Association members who are present up to the grassroot level are also involved in HIV/AIDS education of women and families. The Myanmar Red Cross Society and the Union Solidarity and Development Association are also playing an active role in HIV/AIDS education.

The Myanmar Women's Entrepreneur's Association is involved in credit and loan schemes

for women who are casual sellers in the market as well as rotating credit groups among store keepers. The Association Francois-XavierBagnoud (AFXB), an international NGO, has a preventative programme which caters also to street children, working children, neglected children (of poor single mothers, widows or divorcees) as well as youngsters living in families with HIV/AIDS infected persons.

### **Rehabilitative Activities**

The Department of Social Welfare has established (2) training schools for girls and (4) vocational training schools for adult women. The girl-child, who is in need of care and provision under the Child Law, is admitted to the Training School for Girls which provides educational, vocational and social rehabilitation in order for these young girls to be re-integrated into society.

The objective of these institutions are to undertake social, intellectual and physical development of young orphans and destitute boys and girls so that they could be reintegrated into the communities as respectable and useful citizens of the country.

For women who were apprehended under the 1949 Prostitution Suppression Act, four Adult Women Vocational Training Schools have been established in Yangon, Mandalay, Myeik and Kyineton. The women were provided with vocational training, health care counselling and guidance.

As a preventative measure, domestic science training courses and training courses for day care teachers are conducted at the State and Division level and at the Social Welfare Training School in Yangon.

In September 1992, ninety-five women who had been forced into prostitution in Thailand were rescued and repatriated to Myanmar. These women were provided with medical care, counselling, social and occupational reintegration.

A creative rehabilitation plan was set up by AFXB based on the individual aspirations of the young women, their capacities, health conditions and economic realities. The comprehensive approach includes:

- beneficiary's active involvement
- personal situation taken into consideration and assurance of individual follow-up
- cooperation and referral system established with AIDS Counselling Team, Department of Health and a panel of doctors

*Strategies of intervention include:*

- case, group, community work
- positive self-concept enhancement
- assertive and social skills training
- educational and vocational guidance
- income generating activities
- vocational training
- education
- job placement
- marital counselling
- medical referrals
- monitoring and evaluation
- follow-up

Most of the beneficiaries are no longer involved in prostitution and have become emotionally stable and assertive. The re-integration activities for those women and girls who were repatriated from Thailand are under way.

This approach whereby not only occupational re-integration of the person concerned, but also the family environment is taken into consideration is quite unique and directed towards the poorest of the poor.

## **Conclusion**

The trafficking for sexual exploitation and any form of abuse and neglect are prohibited by special laws and provisions. Due to Myanmar's customs of upbringing and protection of women and children and the strong legal enforcement of the existing laws of Myanmar, women and children trafficking is not a grave problem of Myanmar when compared with other developing countries. Out of 95 women who were sexually abused and forced into prostitution in Thailand received by the Immigration and Population Department, and a further 24 women and girls repatriated from Thailand, it was found that only two were girl children.

The government is giving priority to the implementation of measures for survival, development, participation and protection of the child under the Child Law of 1993. Consisting of government and non-governmental organizations and individuals, the Myanmar National Committee for Women's Affairs also implements various prevention and protection programmes for vulnerable groups of children, young girls and women.

On the international stage, Myanmar has signed the 1949 Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution and others, but not ratified or acceded to. However, Myanmar has acceded to the Convention on the Elimination of All Forms of Discrimination Against Women in 1997 (CEDAW).

The Commission on Human Rights, at its fifty-fourth session in March 1998, adopted a resolution (1998/30) titled "Trafficking in Women and Girls" in which it calls upon governments of countries of origin, transit and destination as well as regional and international organisations to implement the Platform of Action on the Trafficking in Women of the Fourth World Conference on Women. Myanmar co-sponsored this resolution.

With regard to child trafficking in Myanmar, protection and rehabilitation measures are being taken by the Myanmar Police Department, Immigration Department, Health Department, Social Welfare Department and Education Department under the guidance of the National Committee on the Rights of the Child.

## **Nepal Country Report**

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### **Introduction**

Nepal is a landlocked country encompassing an area of 147,181 square kilometers. The country is almost rectangular in shape with its 120 to 240 kilometers width and nearly 900 kilometers length. It is situated between India and China with an open border with India on three sides (East, West and South). Within this small area lies the most diverse topographies and varied plant and animal life to be found in the world. Nepal is a densely populated country with high rugged mountains. The main occupation of the Nepalese people is subsistence agriculture. Out of the total population 18,491,000 female population comprises about 51% and women are poorer and less privileged than the male population in many respects.

### **Situation analysis**

Trafficking of Nepalese women and children for commercial sexual exploitation and for other purposes is a serious problem in Nepal. Trafficking is taking place within Nepal and from Nepal to other countries. Children, mostly girls, from rural hills in Nepal are trafficked to urban areas in India and Nepal for child labour and commercial sexual exploitation. Such trafficking also takes place to other parts of the world such as Hong Kong, Thailand and the Middle East.

There is a lack of reliable data on trafficking in women and children for commercial sexual exploitation. But it is estimated that every year an average of 5,000 to 7,000 Nepalese women and girls are trafficked to India for the purpose of commercial sexual exploitation.

Children are often trafficked out of their home place by using false promises such as the opportunity for a good job and glamorous life in the city, by marriage, or forcible abduction. Often the traffickers attract parents with some down payment or the promise of a good economic return from the job that the child would get. The traffickers operate virtually unimpeded. They have links with middlemen in the cities of destination through brokers.

Most of the girls taken from villages do not know where they are taken to until they come to the grim realization that the people who have trafficked them have slipped away and that they are in the custody of strangers. Threats, beating, and raping are resorted to until the moral and psychological breakdown; at the end they become obedient children serving sex customers at the dictate of these custodians.

### **Affected areas and communities**

Although almost all children in Nepal are potential targets of such crimes, particularly girls from rural hills are highly vulnerable because of their socio-economic circumstances and political status as well as because of their naivete. Nineteen districts of Nepal are identified as the places of high occurrence of trafficking and five districts as the main transit districts. It is found that some communities are more prone to such trafficking than others.

### **Contributing factors**

There are push factors, pulls factors as well as structural faults in society that contribute to the problem of child trafficking for sexual exploitation. In Nepal, the problem pertains mainly to the

dilemma of ever present poverty all over the country in general, and in particular in rural areas where the majority of people have to live on subsistence farming, supplemented by seasonal migration to cities for manual jobs. An exploitative social situation in the villages further aggravates the problem. In the urban areas there are huge problems with unemployment and under-employment. Child trafficking is one of the many visible consequences of the realities.

Due to the current socio-economic development where cash has become the centre of all transactions, the problem of trafficking and sexual exploitation has been ever proliferating in most of the rural areas of Nepal where there is not only acute shortage of cash flow but also a lack of moneytised transactions. The increasing pressure of consumerism and a modern lifestyle is working as a strong pull factor as well.

Illiteracy and lack of basic education regarding human rights, child rights and a civic sense are other major contributing factors to this social problem. Ignorance and native simplicity of the affected people helps to continue the problem. Although His Majesty's Government has made several efforts to develop access to basic education, it has remained still far from being able to address the needs of disadvantaged communities and ethnic groups vulnerable to child trafficking and commercial sexual exploitation.

In many of the ethnic groups vulnerable to child trafficking, it has been found that family disharmony and diminishing family support is contributing to child trafficking and commercial sexual exploitation.

In addition to these, annual population growth, persistent high fertility and gender bias and its relation to child trafficking and commercial sexual exploitation need to be taken into consideration.

Low social status accorded to children and women is another contributing factor to this problem. Many people, particularly females, are misled to take such a situation as the outcome of their fate (Karma).

Added to the problem of fatalistic social values is the social custom that designates certain social castes/groups as sub-servant sex-workers such as Badi. Similarly, the custom of the Deuki system has become synonymous with prostitution. Deuki is a medieval system whereby a very young girl child is offered to a deity as servant-keeper of the temple to appease the deity, usually to ask for boons by the parents of the child or by others who acquire the child from an economically unfortunate family for a price. The girl child is then isolated from other customs and are made to live as celibate life. There are numerous Deukis in the far west of Nepal and the majority of them have openly turned into active and open sex workers.

A legislative system against child trafficking and their sexual exploitation does exist, however, the implementation mechanism is still not effective.

An open border with neighbouring India and a lack of bilateral and multilateral cross-border co-ordination to deal with the problem at sub-regional/regional/international level are additional dimensions of the problem of child trafficking for sexual exploitation.

## **Issues and measures to be taken to combat the problem**

### **Preventative measures**

#### **a. Capacity Building**

There is great need for developing the capacity of people involved in the areas of project designing and developing, monitoring, evaluating and implementing various measures related to

the elimination of child trafficking and their sexual exploitation. The capacity building requires both upgrading of the organisational set up and training of the personnel involved.

#### **b. Institutional Development**

The National and District Task Force, Institutes and NGOs working against child trafficking and sexual exploitation of children should be appropriately restructured and strengthened. The institutional development should be holistic and should receive appropriate personnel and infrastructural development.

#### **c. Legislation and Law Enforcement**

In view of the enormity of the cases of suffering from trafficking and sexual exploitation, legislation should be made for dealing with those who have suffered this type of exploitation, and rescue provisions should be made for the rehabilitation of the rescued and their children. Despite the existence of a law to punish criminals of child trafficking and their sexual exploitation, the occurrences of trafficking are not visibly reduced. Therefore, the penal provisions of the laws should be carried out strictly so as to make the laws an effective deterrent. For the law enforcement initiatives there should be an effective networking of various agencies concerned and a well regulated and monitored single authority to enforce the law. In view of the overwhelming problem of child trafficking across borders, legal mechanisms should be undertaken to facilitate the extension of the border patrolling system to make the border checks effective against child trafficking. Besides, there is a need for raising awareness and competence of law making and enforcement institutions and personnel to act against child trafficking.

#### **d. Awareness creation, advocacy, networking and social mobilization**

There is a need for more effective and continuous mobilization of the mass media to make awareness raising a national campaign. It should bring to light the problems and impact of child trafficking as well as the legal provisions, the enforcement bodies and the other options that are available for children to live in a humane way and to grow into healthy citizens.

Institutionalization of advocacy and consolidating advocacy activities through effective networking is necessary and there should be a core networking group for this purpose. The networking should include GOs, NGOs, INGOs and other social organization for action networking, co-ordination networking, information networking and networking for resource mobilization.

For effective social mobilization there must be organized mobilization of people, community and social institutions at local level, district level, and national level through various activities against child trafficking and sexual exploitation. Women's social activist groups and individuals should be identified and developed as the focal point of such social mobilization.

#### **e. Health and Education**

In view of the potential health hazards, there should be a national level effort to address the health issues related to trafficking and sexual exploitation of children. There should be organized and consolidated efforts to bring health awareness through formal, non-formal and informal channels of education.

Some of the major problems of child labour and trafficking in women is the lack of awareness of the problem itself as well as the awareness regarding the country's law and other provisions. Thus, educational development is the most crucial aspect of developing such awareness.

#### **f. Generation of Employment and Income**

The generation of employment and income is the fundamental requirement for a lasting solution to the problem of child trafficking and their sexual exploitation in poverty stricken countries like Nepal. Developing economic status of the communities at risk through schemes of self-

employment and job oriented as well as market oriented vocational education programmes should be prioritized for this purpose.

One of the basic problems of poverty in Nepal is the lack of monetised socio-economic transactions. In order to develop access to money to the poor and needy section of the community there is a need for schemes to simplify the credit system and their provisions.

#### **g. Rescue and Reintegration**

Immediate measures should be taken to rescue women/girls trafficked and to bring them to rehabilitation centres. To this end, there is a need for:

- Setting up systems to trace missing women/girls and their families
- Establishing effective and efficient rescue units
- Developing effective border patrols/spot check systems focused on trafficking
- Developing a system of referring the rescued women/girls to safe homes and services.

In order to efficiently conduct rescue work, there is a need for better training of the concerned personnel and seeking co-operation with the community, NGOs and government bodies. There is also a need for cross-border co-operation.

Reintegration of victims should focus on actions that restore or strengthen their health so that they may undertake various training courses. The provision of medical care and food, remedial education, vocational preparation programmes, counseling is essential to such actions. Provision of feasible alternatives, such as job training opportunities, temporary "safe" work, pre-vocational training are necessary for keeping victims safe from falling back again to the abusive situation.

Rehabilitation centres should be developed where rescued women will be provided with counseling, preliminary health care, food and shelter, and non-formal education.

Counseling and re-socialization services should be provided and should be open to all affected – family and community included.

Community, DDC and VDV should be involved in the reintegration process. The reintegration process should focus on establishing the fact that rescued women/girls are the victims who need to be considered as normal members of the community. Their privacy should be honoured. Those who are involved in trafficking should be exposed as the criminals punishable by law.

Training programmes should be conducted regularly to train social workers and those concerned on the different aspects of re-integration.

#### **Response to the problem**

Nepal is a state party to several UN conventions and has ratified the following conventions:

- Convention on the rights of the child in 1990 (CRC)
- Convention for the suppression of the traffic in persons and the Exploitation of the prostitution of others (1949) 1995.
- The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 1991.
- The SAARC Ministerial meeting on children, Rawalpindi 1996.
- The Minimum Age Conventions ILO 1973 (No. 138).
- World Congress on Trafficking and Commercial Sexual Exploitation of children, Sweden 1996.
- The Fourth World Conference on Women, Beijing China, 1995.

- The Colombo Resolution of SAARC to Alleviate the Situation of Girl in Specially Difficult Circumstances 1992.
- Tenth SAARC Summit-Draft Conventions on Combating the Crime of Trafficking of Women and Children Colombo 1998.

The Third SAARC Ministerial meeting on Children held in Rawalpindi (1996) commits the signatory countries to combat inter and inter country trafficking in children and assist victims of violence due to prostitution and sexual exploitation and evolve administrative, legal and rehabilitative structures both within and between member states to combat the problem.

The Ninth SAARC Summit of Heads of State of Government held in Male in May 1997 similarly expressed grave concern at the trafficking of women and children within and between countries and pledged to co-ordinate their efforts and take effective measures to address this problem. The resolution pointed out that the existing legislation in member states should be strengthened and strictly enforced. This should include simplification of repatriation procedures for victims of trafficking. They also decided that the feasibility of establishing a Regional Convention on combating the Crime of Trafficking in Women and Children for prostitution to be examined by the relevant Technical Committee.

In June 1997 the Prime Minister of Nepal and India, in a joint press statement, expressed their deep concern at the inhumane practice of trafficking in girl children and women and directed their officials to create appropriate mechanisms to control it effectively.

Furthermore, the Tenth SAARC Summit of the Heads of State of Government in Colombo, July 1998 proposed a draft Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. Outlining the problems and issues of trafficking in women and children as grave concerns of civil society at large, the summit put forward provisions for co-operation among the member states with regard to extradition, repatriation, rehabilitation and networking.

### **Government Initiatives**

In pursuance with international commitment at global, regional and sub-regional level, HMG, Nepal has taken several initiatives to address the problem. The major initiative in this direction came after the formation of the Ministry of Women and Social Welfare (MOWSW) in 1995. Within HMG/N, the Ministry of Women and Social Welfare is the focal point for addressing the problems of women and children. Since its inception, the Ministry has been undertaking various initiatives in alleviating the problem. Accordingly, it has formed a national policy regarding control and elimination of trafficking of women and children to the sex market. His Majesty's Government has adopted a policy to combat the problem. The policy relates mainly to the creation of awareness, strengthening of the law, mobilisation of organisations and communities to deal with alleviation of poverty, provisions of formal and vocational education, rehabilitation of victims etc. In detail, the following are the major policy focus areas:

- Mobilizing people through campaigns to create awareness about the need to eradicate the problem of child trafficking and their sexual exploitation.
- Developing programmes for rescue and rehabilitation of the victims of child trafficking for sexual exploitation.
- Taking steps to solve the problems of HIV/AIDS and other sexually transmitted diseases (STD).
- Developing preventative programmes through poverty alleviation schemes by creating jobs and self-employment schemes in the affected areas so that marketable skill oriented formal and vocational education development will be emphasized.
- Forming a co-ordinating body at central level as well as at the district and village levels as



necessary.

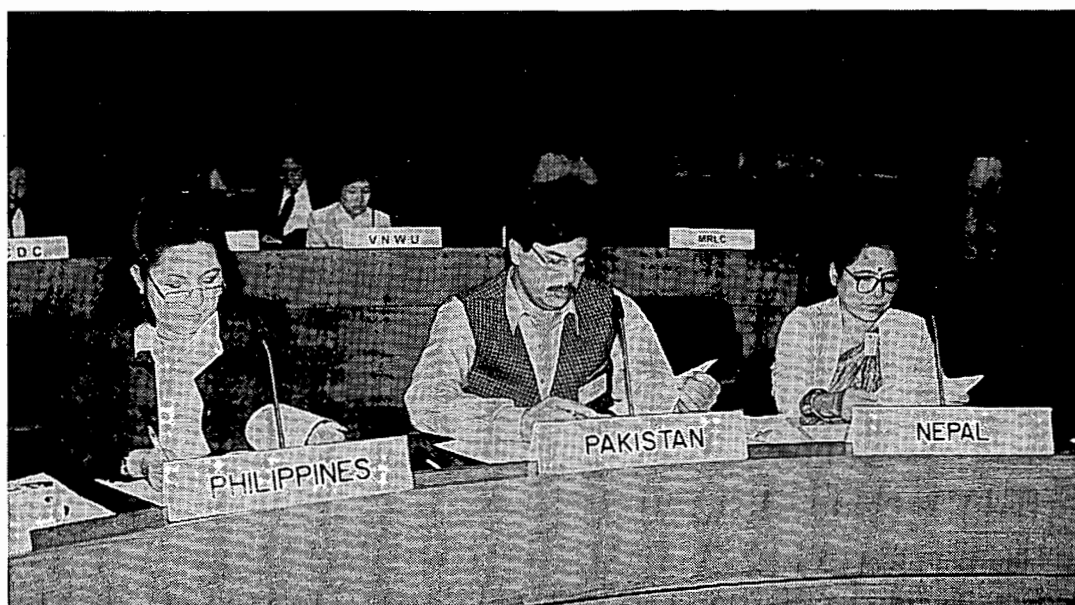
- Developing information systems by mobilizing district level co-ordination committees.
- Seeking national consensus against child trafficking and prostitution from all political parties.
- Co-ordinating with international, national and local level organizations; making efforts to formulate bilateral and multilateral co-operation and co-ordination.

In line with the policy focus, HMG Nepal has been engaged in several activities with active involvement of NGOs and other agencies. The "National Consultative Workshop on the Development of a National Plan of Action Against Trafficking in Children and their Commercial Sexual Exploitation" held in Kathmandu in April 1998, in collaboration with the ILO-IPEC, is one of the important initiatives undertaken to bring major stake-holders together to discuss the problems and issues and to seek ways to deal with the problem. The purpose of the workshop is to appraise the present situation of child trafficking and their commercial sexual exploitation and to develop a National Plan of Action to combat the trafficking of children. The national plan of action is finalized. The action plan outlines the areas of intervention as follows:

- I. Policy, research and institutional development
- II. Legislation and enforcement
- III. Awareness creation, advocacy, networking, and social mobilization
- IV. Health and education interventions
- V. Income and employment generation, and
- VI. Rescue and reintegration.

The magnitude of the problem is very serious. However, with the limited resources the Ministry of Women and Social Welfare is attempting to combat the problem along with the co-ordination of other ministries, GOs and NGOs and international bodies. The Ministry has already established an organizational framework throughout the concerned districts of the country for networking, co-ordination and co-operation to combat the problem.

In addition, the signing of MOU between HMG and ILO/IPEC on last November 1997 to implement the Action Programme to combat trafficking in children for commercial sexual exploitation is a significant support for the Ministry. The main activities of the Action Programme include the development of mechanisms for capacity building of related institutions, formulation of national action plans, strengthening of legislation and enforcement procedures, awareness programmes, action oriented research programmes and establishment of documentation centres.



## **Child Workers in Nepal Concerned Centre (CWIN)**

**Mr. Gauri Pradhan**

*Director, CWIN, Kathmandu*

### *Innocent Victims: Trafficking in Women and Girls across the Nepal-India border*

#### **Introduction**

The total population of Nepal currently stands at 2.2 million of whom 12 million are children (i.e. persons below the age of 18). At risk for being subjected to child labour are about 2.6 million children, and there are a further 5,000 street children. With regard to trafficking and child prostitution, there are about 32,000 children in India engaged in this kind of trade and about 5,000 children below 16 years of age in Nepal.

Besides bonded labour in agriculture, many other types of child workers (such as carpet workers, domestic helpers, restaurant boys) are also in a situation of debt bondage.

Every year, thousands of children are migrating from villages to the different cities of Nepal and India. Many of them are working there as rag pickers, domestic child workers and carpet workers.

Another serious issue regarding children is child marriage. 34% of all marriages are held with children below the age of 16. About 7% of all children below the age of 10 are also pushed into engagement for a traditional marriage to be held soon thereafter.

#### **Magnitude of the Problem**

It is estimated that about 200,000 Nepali women and children who are trafficked and sold to India over the period of one year (?) are working as forced prostitutes in brothels in different parts of India.

It is estimated that there are at least 20% children under the age of 16 who are sold and trafficked for prostitution. Some of the children who are trafficked and sold into the brothels are as young as 10 years. Most women and children who are trafficked into India come from mountain areas of Nepal and they are cheated and deceived by traffickers using different tricks, fake attractions and fraud marriage.

A majority of girls who are the victims of trafficking and forced prostitution used to work as weavers in the carpet factories in Nepal. Many research projects and case studies investigating this problem have revealed that carpet industries in Nepal are used as the safest transit places for trafficking.

A majority of women and girls who are victims of trafficking and selling come from the so-called low caste community, poverty stricken areas and urban poor areas where the level of social consciousness is low.

The very mention of places such as Bombay usually conjures up images of good jobs, success, money and glamour. The desperate people of the villages are more than willing to try their luck, thus becoming the perfect target for traffickers. For many people in Nepal, India means Bombay and Bombay is their dreamland where they believe to be able to put an end to their lives of poverty and hardship.

## **The Roots of the Problem – Review and Assessment**

There is first of all the social-cultural domain and the issue of unawareness. The social-cultural domain in Nepal is entangled with traditions, superstitions and male chauvinist concepts that encourage discrimination against daughters. Unless daughters are provided with equal opportunity and initiatives are taken to ensure overall development of women, this practice will continue to exist and grow. Ultimately, our sisters and daughters will be compelled to survive under injustice and exploitation unless we get rid off exploitative thinking and activities through socio-cultural progress. The following issues need to be subject to serious changes:

- caste system
- child marriage
- traditional prostitution/religion
- tradition of nursing mothers
- degrading social status of women in general
- Jari: traditional marriage practice
- Neglected status of girl children

Another area is the economic domain. Here, the following issues need to be rethought:

- unfair distribution of wealth/lack of economic justice
- unequal land holding system
- weakening women's situation in economic decisions
- denial of women's rights to parental property
- lack of training, skill education and employment

A further area is that of politics and the problem of a general lack in political commitment. In this regard, the following problems have emerged:

- issues related to women and children are not prioritised in the political programme
- lack of adequate laws for the protection and prevention of children who are the victims of trafficking and selling
- ineffective implementation and enforcement of the laws and policy regarding the rights of women and children
- lack of implementation of national regional and international commitments of HMG/Nepal on Human Rights Issues
- lack of clear visions and understanding of the protection of the Rights of the Child.

Apart from politics, there is the issue of border control. Evidence has shown that the age-old friendship border between Nepal and India has unfortunately become a golden gate for criminals. For many innocent children and women of Nepal, this has been proven to be the passport to hell. Trafficking in women and children at the Indo-Nepalese border mainly involves the commercial sexual exploitation of persons, but issue like child labour, bonded child labour and organ transplantation are also covered here.

With regard to crimes in general, statistics have shown that most of the crimes in the world have been targeted against women and children. In Nepal as well, crimes against women and children are increasing. Crimes like rape, child prostitution, child marriage and child servitude, kidnapping of children, and exploitative child labour are occurring in very nook and corner almost daily. Despite their illegality, such activities exist in our society as a fait accompli. Until crimes and violence against women and children are eliminated, their rights and dignity cannot be established and restored. For this, necessary measures should be taken to fight against the crimes against women and children.

## **Laws and Policy against Trafficking in Women in Nepal**

### *Constitutional Provisions*

Under Article 20(1), the Constitution has guaranteed for all citizens the right against exploitation. As such, the article explicitly prohibits "the traffick in human beings, slavery and serfdom or forced labour in any form." Any act contravening to this provision is, therefore, punishable as a criminal offence under the existing law. Pursuant to the constitutional provision, the crime of trafficking of human beings is rendered a criminal offence against the state.

### *Civil Code of 1964*

One section on human trafficking of the Civil Code (Muluki Ain) of 1964 defines the traffick in human beings as a crime. Clause 1 of this section prohibits the act of taking any person or persons by fraud or incitement out of the territory of the country with the intention of selling. The same clause has stated that such an act is punishable by 10 to 20 years of imprisonment and also prescribed the same punishment for those involved in buying the person or persons provided that such culprit is available in the territory of Nepal.

### *Human Trafficking Control Act of 1986*

This Act was enacted to cope with the growing menace created by the crimes of trafficking in women and girls for prostitution. The section 11 of this Act stipulates that no other law applies in matters that are covered by this act. The Human Trafficking Act of 1986 is, therefore, a specific law relating to crimes of trafficking in human beings.

Section 4 of this Act prohibits the following acts as crimes of trafficking in humans:

- selling of a human being for any purpose
- taking any person to a foreign country with the intention of selling
- involving any woman in prostitution by enticement or allurement or fraud, or threat or coercion, or by any other way or means;
- assisting or conspiring and making attempts to carry out any of the above mentioned acts.

With regard to punishment against human trafficking by law, the above mentioned acts have been made punishable by section 8 of the Act as follows:

- 10 to 20 years of imprisonment for the crime of selling a person or persons
- 5 to 10 years of imprisonment for the crime of taking a person to a foreign territory with the intention of selling
- 10 to 15 years of imprisonment for the crime of forcing a woman into prostitution
- 5 years of imprisonment for the crime of assisting or conspiring or making attempts to accomplish the above mentioned acts.

Sub-sections of the section 8 provides for pecuniary penalties too.

### *Special Provisions of the Human Trafficking Act of 1996*

This Act is a piece of legislation that makes provisions for a stringent penal system. Considering the complexity of the situation that happens to be associated with this kind of crime, the Act has made a special provision of shifting the burden of proof on to the defendant. As such, the accused person has to discharge the evidentiary obligation to prove his innocence.

### *Procedures and Jurisdiction*

The State Cases Act of 1993 has defined the crime of trafficking in women and girls an offence

against the state. Apparently, it obliges the state to investigate and prosecute the offence by using the state machinery. As provided by the Act, the investigation is initiated by the complaint about the offence by the victim or any person having knowledge of such crime. The complaint of the victim is recorded by the concerned government attorney, the prosecutor, and by the order of the district court judge. The victim then becomes an important witness of the prosecutor.

#### *Extra-territorial jurisdiction*

The Human Trafficking Control Act of 1986 is one of the very few statutes that recognizes the principle of extra-territorial jurisdiction of the state of Nepal. This Act stipulates to have the extension of the jurisdiction in any crime under this Act beyond frontiers of Nepal. As such, any crime relating to the trafficking in women and children having taking place in the foreign territories is recognisable in the courts of Nepal.

#### *Inadequacy and ambiguities of the laws*

The Human Trafficking Control Act of 1986 is characterized by a very serious weakness in terms of definition as it fails to bring within its competence the act of separating any person from the legal guardian with the intention of trafficking for prostitution. Hence, no crime is established against someone who is found engaged in separating women or girls from their guardians, but has not yet taken the victim out of the country. Similarly, the Act has no provision of punishment to the culprit involved in the purchase of the women and girls for prostitution.

The victim of trafficking is an important witness of the prosecutor during the trial. However, there is no place for protecting such witness arranged by the state. Apparently, the victim is often exposed to the danger of being threatened or forced by the culprits to change the statements or to become indifferent to the case. This has been seen in quite a number of judgements of the courts, in which the accused person have been released on the ground that the victim failed to turn up to the court.

### **Violence against Women and the Ninth Five Year Plan**

Despite so many national, regional and international commitments of HMG/Nepal, the issue of trafficking in women and children has not been properly addressed by the Ninth Five Year Plan (1997-2001). What has been mentioned in the Plan is the protection of human rights of women by taking preventative, protective and rehabilitative measures through the co-ordinated process among the programmes and activities of the government, NGOs and local agencies to combat violence against women.

#### *Poor Enforcement of Laws*

Trafficking in women and children has been one of the most alarming problems in the Nepali society over the years. Every year, 5000 to 7000 girls are estimated as being trafficked into India and other third countries. However, the enforcement of the Human Trafficking Control Act of 1986 seems very poor in dealing successfully with the problems involved. As per the official record of HMG/Nepal only 150 cases were reported in the fiscal year of 1994/95.

Though this is one of the most alarming problems across the Indo-Nepalese border, both the governments of India and Nepal are not very serious in controlling and preventing the increasing trafficking and selling in girls. It is noted that both Nepal and India are the state parties of CRC, CEADAW and the Convention to Suppress the Trafficking and Forced

Prostitution, however, there has not been any formal bi-lateral talk in-between the two governments concerned.

#### *Towards the formulation of a new bill against trafficking in women and children in Nepal*

A task force has been formed to draft a new bill against trafficking in women and children as recommended by a national consultation workshop held in Melamchi in April 1997. The task force of 20 members comprising representatives from all the concerned ministries, judges and lawyers was constituted to study and draft a new bill against trafficking in women and children. The proposed draft bill is expected to clarify and cover the following issues:

- clear definition of the crime of trafficking in human beings
- punishment of persons engaged in enjoying prostitution
- punishment for women engaged in voluntary prostitution
- punishment for any act of separating a person from his/her legal guardians with the intention of trafficking
- compensation for the victims of trafficking or prostitution from offenders and the state
- closed camera trial of cases, and
- protection of the victim and witness by the state.

#### **The Way Ahead**

##### *The Challenges*

- Lack of reliable information and poor level of social awareness
- Lack of Victim Support Programmes
- Lack of coordination by KMG/Nepal
- Lack of proper investigation process
- Lack of political commitment in action
- Lack of women's empowerment programmes in action
- Lack of enough community conscientisation programme for the promotion and protection of the rights of women and children
- Growing rural migration to the cities and lack of opportunities in rural areas.

##### *The Need for Change*

- Law on crime against women and children
- Independent council on women and children
- Alliance of social organisations against crime on women and children
- Special women and children's cell in Police Department
- Bilateral initiatives of Nepal and Indian governments in order to fight against child traffickers and monitoring of border security
- Victims support programme
- Community policing
- Social awareness programmes against child sex abuse and exploitation
- Media awareness to deal with the cases of child victims
- Protection from Re-victimisation

##### *Lessons Learned*

- Advocacy in Action
- Pressure and Partnership
- Intervention for the Change in Attitude
- Question of Re-victimisation
- Psycho-social Counselling

- Fight against the Crime
- No Rescue Operation without enough home-work
- Conflict Management
- Community Rehabilitation of the Victims
- Empowerment in Action

#### *Strategies for Intervention*

- Social awareness
- Employment and Self-reliance
- Co-ordination and alliance building work
- Law Reform and Law enforcement
- Systematic Crime Investigation
- Border security
- Information and Communication for action
- Action against Crime against Women and Children
- STDs and HIV/AIDS
- Bi-lateral/multi-lateral political agenda

#### *Victims Support Programme*

- Rescue of Child Victims
- Transportation of Girls from India to Nepal
- Counseling, Medical Rehabilitation and Housing
- Compensation, Rehabilitation and Social Integration
- Protection of from Re-Victimization

### **Conclusion**

The elimination of trafficking in girls for prostitution is a very important agenda at present. However, it can not be possible without building a strong social movement on the ground level because the fight against the trafficking in women and children is a war against exploitation, injustice and crime created by the strong underworld networks by using the given situation of poverty and starvation for commercial sexual exploitation of the flesh trade.

Looking at the present developments in crimes against women and children, one has to realise that this problem cannot be resolved in isolation from others. Facts have revealed that this problem has been interlinked with the growing socio-economic, cultural and political exploitation in the country. If we are really determined to fight against child sexual abuse and exploitation, we should seriously review and examine the roots and causes of the problem, its impacts and results. In our context, it is also closely interlinked with the issue of the Indo-Nepalese open border situation. I think this is the right time to call for discussions about the security in the border areas.

Trafficking in women and children for the commercial sexual exploitation is one of the most inhumane issues existing today. If our children are sold in front of us how can we expect a better future in the days to come? This is not only a shame for us but also a challenge to our democracy, human rights, and security. If we wish our children to be liberated from the harms of exploitation, we should not wait until tomorrow. We have talked a lot on the issues of children at risk. But time has come to translate our words into action.

## **Pakistan Country Report**

**Mr. Mushtaq Ahmad Khan**

*Section Officer, Social Welfare & Special Education, Ministry of Women Development*

### **Background**

Trafficking in women is a form of violence for profit to which a substantial number of women are subjected. While trafficking is more prevalent in the case of foreign women being brought into the country, internal trafficking of Pakistani women is said to be on the rise, though there is insufficient information on it. Forced prostitution of girls from lower-income backgrounds has always been in existence, with very few being able to escape from the net even if they wish to do so. Although no authentic information is available regarding the extent and magnitude of this problem, its nature is very well-known.

It is generally observed that it is not only the desire for a better living but also an increasing tendency towards materialism, which leads women to fall prey to traffickers. The whole region comprising Bangladesh, India, Nepal and Pakistan have become very profitable grounds for the operations of traffickers.

### **Situation Analysis**

The government of Pakistan has taken numerous steps to curb violence. The law enforcement agencies have been activated and mobilized to put an end to the recent wave of terrorism and lawlessness in the country, with some success. The media (both print and electronic) has played a role in sensitizing the masses regarding abuse of women and children including victimization of trafficked women. Women's police stations were opened to deal with the matter effectively. The problems of inter-country and intra-country trafficking also contributes to this element. Children whose residency is arranged through an agent or who are sometimes accompanied by their mothers are driven away to some other localities for work. Likewise, children and their mothers are brought from remote rural areas to industrial or developed towns to work for meager amounts of money, which is often paid on an annual basis to their parents. Many public and private sector institutions provide refuge to battered women until they are rehabilitated.

Large-scale migration of people from country to country in search for work is the latest phase of migration streams in human history. Relatively little attention has been given to the political and social ramifications of large-scale transfers of labour from South Asian countries to the Middle East.

There is no clear evidence as to how many years back the drift of migration was replaced by illegal migration and even more recently by trafficking in women and children from one country to another. Trafficking in women is threatening the fabric of our society in the region for various reasons. For instance, it may include the abuse of children at work places or at home (trafficked children contribute to cheap labour), indulgence of women into prostitution and/or pornography.

There are also no data available on the magnitude of the problem of trafficking in Pakistan. General migration trends in South Asia have many facets. The persistent rural urban disparity and problems in urbanization relate to migration in South Asia. Lack of job opportunities and persistent suppression of women in the region contribute to their migrating to other neighbouring countries.



The relationship between trafficking and sexual abuse and exploitation is very strong. Trafficking is directly related to the commercialization of prostitution and the trend to introduce young girls to the human trade. The reasons why trafficking is thought to be a menace is because it had long been recognized as a contemporary form of slavery. Trafficking may take other forms like illegal adoptions, theft of body parts, debt bondage of workers and sexual exploitation. Despite a general increase in human rights protection in the last fifty years, children and women have suffered immensely in recent decades as victims of trafficking.

Most women prostitutes are sold into the trade by poor families or lured into it by pimps who offer street children (girls) warm food and a place to sleep. All of it for a price. Pakistan's flesh trade does not appear to have been backed by powerful organized crime networks as known in other countries of the region. The tiny operations that exist help keep the trade clandestine.

### **Legislative and Administrative Measures**

Government responses to alleviate these problems include both legislative and administrative measures. The measures are given below:

Pakistan has ratified the international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Children. Both Conventions condemn the sale, trafficking, abduction and exploitation of women and children.

In the Fundamental Rights as laid out in the Constitution of Pakistan, it is stated in Article 9 that no person shall be deprived of life or liberty. And Article 10 of the Constitution reads roughly as follows:

- (1) No person who is arrested in custody shall be without being informed of the grounds of such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.
- (2) Every person arrested and kept in custody shall be brought before the Magistrate within a period of 24 hours of such arrest.
- (3) Nothing in clause (1) and (2) shall apply to any person who is arrested or detained under any law providing for preventative detention.
- (4) No law providing for preventative detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security and defense of Pakistan, or public order, or the maintenance of supplies or services.

Article 14 of the Constitution preserves the inviolability of the dignity of man and his right to enjoy privacy at home. Article 14(2) states:

“No person shall be subjected to torture for the purpose of extracting evidence.”

Article 25 deals with non-discrimination against any citizen. It is stated that:

“All citizens are equal before the law and are entitled to equal protection of the law.”

“There shall be no discrimination on the basis of sex alone.”

“Nothing in this article shall prevent the State from making any special provision for the protection of women and children.”

Pakistan's Penal Code (Qisas and Diat) has sections which directly penalize the deal in trafficking as summarized below:

#### **Section 366**

Kidnapping, abducting or inducing women to compel her into marriage etc. is illegal.

#### Section 366-A

"Whoever by any means whatsoever induces any minor girl under the age of 18 to go from any place or to do any act with the intent that such girl may be, or knowing that it is likely that she will be, forced to illicit intercourse with another person shall be punished with imprisonment which may be extended to ten years and shall be liable to a fine."

#### Section 366-B

Concerning the importation of girls from foreign countries:

"Whoever imports into Pakistan from any country outside Pakistan any girl under the age of 21 with the intent that she may be or knowing it to be likely that she will be forced to illicit intercourse with another person, shall be punishable with imprisonment which may extent to ten years and shall also be liable to a fine."

#### Section 367

Regarding kidnapping or abduction in order to subject a person to grievous hurt, slavery etc.

"Whoever kidnaps or abducts any person in order that such person may be subjected, or may be put in danger of being subjected to grievous hurt or slavery, or knowing it to be likely that such person will be subjected to slavery, shall be punished with imprisonment of a term which may extend to ten years and shall also be liable to a fine."

#### Section 370

Regarding the buying or disposing of any person as a slave:

"Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to a fine."

#### Section 371

Concerning the habitual dealing in slaves:

"Whoever habitually imports, exports, removes, buys, sells, trafficks, or deals in slaves, shall be punished with imprisonment for life, or with imprisonment for a term not exceeding ten years, and shall also be liable to a fine."

#### Section 399

Regarding wrongful confinement:

"Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to wrongfully restrain that person."

"Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said to wrongfully confine that person."

#### Provisions under the Huddod Ordinance of 1979

The Huddod Ordinance of 1979 criminalizes *zina*, which is defined as extra-marital sex including adultery or fornication. It also criminalizes *zina bil jabr*, which is defined as rape outside of valid marriage.

#### Section 13

Selling persons for purposes of prostitution etc.:

"Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any lawful and immoral purpose, or knowing it to be likely for such person to be employed or used for any such purpose, shall be punished with the imprisonment for life and with whipping not exceeding thirty strips and shall also be liable to a fine."

## Section 14

“Whoever buys, hires or otherwise obtains possession of any person with the intent that such person shall at any time be employed or the used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose or knowing that such person will be employed or used for any such purpose shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to a fine.”

### Measures to Combat Trafficking and Exposure to Prostitution

#### Government's measures:

The government of Pakistan has set up a High Power Commission of Inquiry for Women, under the Chairman-ship of Mr. Nasir Aslam Zahid, Judge of the Supreme Court, in October 1994. The Commission submitted its report containing the following ten chapters along with recommendations to the Prime Minister in August 1997:

1. The Constitution
2. Political Participation
3. Citizenship
4. Family Laws
5. Labour and Services Laws
6. Criminal Laws
7. Qanun-e Shahadat
8. *Violence Against Women*
9. Developmental Rights
10. Institutionalization.

The Commission recommended that:

“Trafficked women and prostitutes should be recognised as victims of a deprived society, not as criminals; efforts should be seriously made towards rehabilitating them and protecting them; agents and pimps should be made financially liable for all costs incurred in their rehabilitation.

To ensure that the real criminals are prosecuted, trafficked women and prostitutes should be made witnesses in cases instead of being accused, and given protection in the process.

Pimps and trafficking agents should be prevented from meeting the victims in jail.

Attempts must be made to reach agreements with countries to share repatriation costs, otherwise the trafficked women will never be able to get out of jail even after serving their sentence.

The option of providing temporary amnesty to trafficked women and children should be considered, with the option of permanently legalising their status in Pakistan. “

The Ministry of Women Development, Social Welfare & Special Education has taken certain steps to implement the recommendations of the Report both directly and indirectly, via the Constitution of Lawyers and Social Workers Committee, initiating proposals on setting up the Inter-Ministerial Committee, Inter-Departmental Committee at provincial level and setting up the Permanent Commission for Women's Development.

### Crisis Centres for Women in Distress

The Ministry has set up "Crisis Centres for Women in Distress" in Islamabad and Vehari. This is a pilot project which aims at providing medical and legal aid to women victims of violence. These Centres are being run around the clock by an NGO. The Management Committee comprises NGOs and Government officials. A team of volunteer doctors, lawyers and social workers has been associated with the Centres to help women in distress. At a later stage, this experience will be replicated in other cities.

### **Women Police Stations**

Women Police Stations staffed exclusively with women have been very successful in reducing incidents of violence against women.

In addition to the above, Pakistan being a member of the SAARC countries, has recently finalised the text of the Convention on preventing and combating trafficking in women and children for prostitution which has been approved by the 10<sup>th</sup> SAARC Summit held in Colombo on 27-30 July 1998 for signing at the 11<sup>th</sup> Summit to be held in Kathmandu in the latter half of 1999.

### **NGOs Measures**

They have directly tackled many cases and did resolve the problems arising from trafficking in women, addressing the issues of prostitution and in many cases rescuing women involved in pornography and prostitution.

Edhi Welfare Trust, for instance, provides homes for lost and kidnapped children. The Trust also provides services (legal aid and accommodation) to children who are trafficked and imprisoned. Lawyers for Human Rights and Legal Aid (LHR&LA) also provide legal assistance to trafficked women and are actively involved in training government personnel on juvenile justice administration (dealing with cases under Hadd laws and other laws on child sexual abuse and exploitation).

### **Recommendations**

Following are some of the major recommendations for combating the crime:

1. Trafficked women and prostitutes should be recognized as victims of a deprived society, not as criminals; efforts should be seriously made towards rehabilitating them and protecting them; agents and pimps should be made financially liable for all costs incurred in their rehabilitation.
2. To ensure that the real criminals are prosecuted, trafficked women and prostitutes should be made witnesses in cases instead of being the accused, and should be given protection in the process.
3. Pimps and trafficking agents should be prevented from meeting the victims in jail.
4. Attempts must be made to reach agreements with countries to share repatriation costs, otherwise the trafficked women will never be able to get out of jail even after serving their sentences.
5. The option of providing temporary amnesty to trafficked women and children should be considered, with the option of permanently legalising their status in Pakistan.
6. Many more concerted efforts are required to develop a sensitive policy and enact special legislation, with regard to what has been done in other countries. Child sexual abuse should be clearly defined and harsher penalties introduced in the law; as a preventative measure, the topic should be introduced in school curricula or special programmes run for school children; to ensure sensitive treatment of the victims, nurses and doctors must be educated about it and trained how to handle cases; and most importantly centres (?) must be opened in government hospitals to deal with medico-legal issues of child sexual abuse.

## **Sri Lanka Country Report**

**Ms. Kamal Wickremasinghe**

*Secretary, Ministry of Women's Affairs*

Trafficking in women for prostitution is a global problem which is on the increase. It is of particular concern to those societies in the Asian region as the problem is growing in alarming proportion in some countries in South Asia, such as Bangladesh and Nepal. However, due to its insular location as an island, the incidence of trafficking is minimal in Sri Lanka. Large scale trafficking of women and children outside of Sri Lanka does not take place. There is a paucity of data regarding trafficking in women and children but apparently cross-border trafficking is not yet a cause for concern.

However, within the country women and children are being trafficked by agents from rural areas to cities, especially to Colombo. Some of these women end up in the city slum areas and also in brothels. Therefore, prostitution is hidden and dispersed, and it is not concentrated and visible as there are no Red Light Zones. Keeping brothels is an offence under the Brothels Ordinance and prostitution, though not illegal as such, is socially not accepted. As a result, prostitutes are ostracized.

As mentioned above, there is a paucity of data on the numbers of sex workers involved. A study of 1996 on the socio-economic dimension of HIV/AIDS has revealed that there are about 12,000 sex workers in the country. Another study by Professor Ratnapala, carried out in 1997, estimates the figure to be 20,000. It is not clear how many have actually been trafficked and how many have resorted to this kind of work by their own will. Yet certain studies have made it clear that some have been lured to the city by offers of other jobs than the sex trade, while some who were already employed in jobs such as domestics, but subjected to abuse, resort to this type of work as they would not be taken back by their village if they returned. There are also those who engage in this trade as a form of survival out of extreme poverty. Denied any other job opportunities and training, this is often the only way to earn money. In one study quoted above a quarter of the sample was driven to sex work by desertion or abuse by trusted persons such as boy-friends, employers, step-parents or law enforcing officers. Some have been influenced by friends to earn easy money and some forced by their drug addiction and the need to buy heroin or other drugs. The open economy and the growth of tourism have led to the rise of high-class brothels in the city and the lure of good money alone keeps these sex workers in the trade. On the other hand, at least three quarters of the women in the sample intended to leave their job at some future date. In another survey in Kandy it was revealed that 34% of the sample had a history of overseas employment. Sexual promiscuity, sexual abuse and even initiation into prostitution while being abroad could be considered as additional reasons why some women have taken to prostitution.

Data also indicate that female prostitution is on the increase but the cause for concern is the increase in the use and abuse of children in this trade in tourist resorts. Prostitution is evidently spreading to new locations due to the war in the North-East concentrating on areas subject to troop movements.

In the past, there were incidences of trafficking in women on a small scale as mail-order brides to Japan, but they seem to have ceased once the racket became known. Such was the case of the baby farms too which came to light in the 1980s. Children were given to foreigners for adoption under the Adoption Ordinance and unscrupulous people operated baby farms taking advantage of the situation. Now this practice is made difficult by introducing new regulations by the department of Probation and Child Care. Selling boys for camel riding to Middle Eastern countries too seems to have stopped once the authorities became vigilant.

Though the incidence of trafficking out of the island is not a cause for alarm as the numbers are negligible it is found that there is an inward trafficking of Thai and Eastern European sex workers to Sri Lanka. There are no data regarding the numbers as these women must have entered the country in the guise of tourists. It is said that Thai women are brought in by Thai gem buyers who operate in the

gem city of Ratnapura. One could assume that the number of such sex workers is small.

### **New Policies and Action Taken**

Eradication of prostitution is an unreal dream but at least minimizing trafficking if not eliminating the evil is an achievable goal, provided the authorities concerned make a concerted effort to do so. One government cannot eliminate it if the others do not cooperate. Therefore, the countries of the SAARC Region drafted the SAARC Convention on Preventing and Combatting Trafficking of Women and Children adopted by the Council of Ministers at the Summit held in Colombo in 1998. This will be signed by the heads of the SAARC countries at the meeting next summer to be held in Kathmandu.

This convention was drafted with the objective of establishing effective regional cooperation for preventing trafficking for prostitution and for investigation, detection, prosecution and punishment of those responsible for such trafficking. It also emphasized the need to strengthen cooperation in providing assistance, rehabilitation and repatriation of victims of prostitution.

The Penal Code introduced by the British to Sri Lanka did not recognize trafficking, incest and sexual harassment. There was a minor crime of procuring for prostitution and a prohibition of slavery. Though Sri Lanka has signed the International Convention on Trafficking, the concept of trafficking remained absent from the Penal Code until 1995. In Sri Lanka, one significant change concerning violence against women took place in 1995 when Parliament passed amendments to the Penal Code. This brought many changes though some feel that the rising rate of crime against women is still not counteracted in an adequate way. Among the areas developed and made more gender sensitive were trafficking, incest rape and sexual harassment. This Penal Code amendment of 1995 introduces the offence of trafficking in section 360A. Buying, selling or bartering of any person for money or any other consideration is now made an offence. The primary focus of this amendment was Sri Lanka's concern over baby farms and trafficking of children for nefarious activities and as domestic servants. The problems associated with trafficking in women are not covered which might be due to the fact that it is not a problem of magnitude to draw attention of law-makers. And yet, it should have been included as a preventative measure. However, the section on procuring (360A of the Penal Code) has been expanded to include detention of any person without consent in any brothel with view to sexual intercourse or sexual abuse. To procure for prostitution is also a crime. By focusing on prostitution and not on trafficking, these amendments go contrary to international trends that do not wish to criminalize sex among consenting adults.

On prostitution, laws from the 19<sup>th</sup> century remain on the statutory books. A prostitute walking the streets could be charged under the Vagrancy Ordinance and could be sentenced to fourteen days imprisonment with or without hard labour. The male client and the pimp could also be captured but are given minimal fines and are usually released. These outdated laws need to be reexamined and the Ministry of Women's Affairs has a committee looking into this. Among other things, the committee will also look into the need for special court procedures to avoid undue publicity regarding victims of prostitution as well as enhanced penalties for procurers.

The Charter of Women's Rights of Sri Lanka reaffirms the fundamental rights guaranteed by the Constitution of Sri Lanka. The Charter, in its section 5, states that "The State shall take all necessary measures to realize the constitutionally guaranteed fundamental rights of women including the right to liberty and security of a person and to equal protection of the law."

This covers trafficking as trading in humans as a violation of fundamental rights.

## **Women for Peace (WP)**

**Ms. Wickrama Dulinona de Silva**

*Coordinator, WP, Colombo*

### **Introduction**

Sri Lanka is a developing country with a population of 18 million. It has been plagued with a long drawn-out ethnic conflict with an armed separatist struggle in the north-east of the country. Much of its national product is spent on military expenditure and the social cost of the conflict in terms of displacement and death is very high. The cost has set back economic progress, and combined with the cutbacks in social welfare advocated by the monetarist policies of structural adjustment programmes, rising levels of poverty have been the result.

The income through employment of women has emerged as a key factor to the national coffers of Sri Lanka. Along with the thousands of women who labour in the private sector in the country, women workers in the Free Trade Zones and migrant women housemaids in West Asia have recently become the most significant earners of foreign exchange for the country. Amongst these women workers, women migrants are perhaps the most vulnerable.

### **Defining Trafficking in Women in Sri Lanka**

In Sri Lanka, trafficking in women is primarily seen in a somewhat different light than the predominant form prevailing in other countries in South Asia. While the use of women in the sex trade within the country has a history similar to many other societies in the region and remains an issue of concern, a relatively new form of trading in women has emerged in Sri Lanka in the trade of women as migrants to mainly West Asian countries in search of employment as housemaids.

Disguised and modernised forms of trafficking in women (across borders) take place through seemingly legitimate recruitment of women for employment. Many of these women hail from economically impoverished families from rural areas of the country.

External migration of Sri Lankan women workers began in the 1970s with the opening up of the labour markets in West Asia. In 1996, the Sri Lanka Bureau of Foreign Employment (SLBFE) instituted under the Ministry of Labour placed the figure of migrant workers in 1996 at approximately 165,572. Of this 68% were women who had migrated to primarily West Asian countries to work as housemaids. Only 4% of these women migrants fell into the category of skilled labour and worked as middle level professionals.

### **The Nature of the Trade in Women**

Sri Lanka has to date no official contracts with receiving to protect or promote the rights of Sri Lankan migrant workers. Most prospective women migrants seek employment abroad through job agencies in the country, the majority of whom operate without the legally required registration with the Ministry of Labour. A significant number continue to arrange places of employment through personal contacts such as a relative or neighbour already employed in West Asia. A large number of women migrants workers embark on their search for employment without recourse to any contractual security.

The lack of any contractual agreement between the migrant women worker and the employer is seen to be a major factor which exacerbates the vulnerability of these workers. In reality, this situation places them in a context similar to the insecurity and vulnerability of women workers in the informal sector in Sri Lanka. Legitimate housemaids in West Asian countries with valid visas and job contracts are bound to their employers for the duration of their stay and are virtually "on call" 24 hours

a day.

There have been many reports in the press and to concerned agencies (such as women's groups and human rights groups) in Sri Lanka by women who have been called upon to satisfy the sexual needs of employers as part of their daily chores. There have also been reports of enforced immobility with some employers taking passports and other travel documents into their custody, preventing women from leaving their service until completion of their contracts/agreed period of employment.

A number of deaths of Sri Lankan housemaids in West Asia have been reported in the local press. For example, during the period January to June 1997, approximately 47 deaths of women migrants were reported from West Asia. Most of these deaths appeared to have occurred under suspicious circumstances such as falling from a balcony, severe assaults (including burning with boiling water and knife wounds).

Approximately 450,000 Sri Lankan women worked in West Asian countries in the mid-1990s. The majority of these women were married and left behind families when they migrated for periods between 2-5 years.

While in most cases this employment is legitimate, a significant proportion of women who have gone to these countries abandon their original places of employment (residences) for lack of proper facilities, non-payment of wages, poor working conditions or physical and sexual abuse. The rate of 'runaway' Sri Lankan housemaids in Saudi Arabia, Kuwait, Lebanon, Jordan and other West Asian countries is quite high. One of the biggest problems faced by those who monitor the conditions and situations of women migrant workers is the non-availability of reliable data on these women who have left their original locations of employment on their own accord.

Some of these women seek shelter at Sri Lankan embassies or consulates in the respective countries. There, records are available on the numbers of these women. The complaints made by these women range from non-payment of wages, injuries and assault to overwork, torture and jail. However, a significant number seek re-employment often through illegal means despite the risk of becoming easy prey to unscrupulous operators who sell them to brothels or 'recycle' them as domestic slaves. In such situations, women who originally travelled abroad on legitimate visas and job entitlements face similar hazards and are often in similar situations as women trafficked as sex workers.

Job contracts have until very recently been drawn between job agencies of the sending and receiving countries and the SLBFE. A contract of employment for domestic workers was formulated by the Ministry of Labour in collaboration with the SLBFE in 1998. Registered job agencies and other concerned institutions were also consulted in this process by the Ministry of Labour.

Signing these new contracts is now a compulsory requirement before Sri Lankan women domestic workers secure employment overseas. The contracts have to be signed by the employee and the employer and should be guaranteed by the respective job agent in both sending and receiving countries.

The SLBFE set up a special unit in 1997 which makes it compulsory for women migrant workers to register with them prior to embarking on employment overseas. This is seen as a measure which would enable the Sri Lankan government to monitor and ensure some form of insurance for these workers. All migrant workers are required to pay a registration fee to the SLBFE which reportedly guarantees the migrant worker insurance cover ranging from Rs. 5000 to Rs. 100,000. It is also reported that the children of migrant workers will be entitled to special scholarships.

### **Interventions by Women's Organisations**

The Sri Lankan Government formulated a National Plan of Action on Women in 1996 as a



commitment made during the Fourth World Conference on Women in Beijing 1995. In the NPA, the issue of migrant women is addressed and recommendations are made as to why and how the rights of these women need to be protected. While the concrete question of trafficking and forced prostitution of women migrant workers is not directly addressed in the NPA, continued lobbying by women's groups and human rights groups resulted in the establishment of two Special Task Forces in 1997. One Special Task Force deals with the issue of Child Abuse and the other deals with the issue of Migrant Workers. This move has enabled policy interventions and some action to protect the rights of children and migrant workers. The Special Task Force on Migrant Workers seeks to ensure the following:

- a free ticket to and from the receiving country
- a work day limited to 12 hours
- the placement of the monthly salary in a bank account in the name of the employee

Very few non-governmental organisations have begun to conceptualise the issue of trafficking in women in the context of the exploitation of migrant women workers. Most of the interventions in this area has been limited to dealing with post-exploitation situations such as the provision of counselling, legal assistance and rehabilitation. A coalition of 32 women's organisations under the name of Mothers and Daughters of Sri Lanka (MDSL) has been one of the organisations which has been consistently raising the issue of the rights of Sri Lankan women migrant workers in West Asia as well as other parts of Asia. However, at the border level, much more systematic work needs to be done in the area of protection of women's rights as women and as workers.



## **Uzbekistan Country Report**

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### **Trafficking in Women**

The issue of women's rights remains a most acute and critical one. There is no single society which could declare a thoroughly successful solution to this problem. Even well-developed democratic societies have a lot of improvements to do, not to mention women's social advancement in a society in transition – such as Uzbekistan – where women are facing particular difficulties.

In a very short period of independent development, Uzbekistan has managed to adopt a Constitution, to institute the Plenipotentiary on Human Rights (Ombudsman), the Institute for monitoring the current legislation under the Parliament, the National Center on Human Rights, the Constitutional Court and the Public Opinion Center.

The Constitution of Uzbekistan has established equality between men and women, and the current legislation of the sovereign Republic of Uzbekistan has no provisions damaging the rights of women. Nevertheless, Uzbek women are not duly represented in the public and political sphere. One example is the participation of women in political parties and movements. The representation of women in highest authority levels makes up from between three to ten percent in the states of Central Asia, instead of thirty percent suggested by international norms.

In Uzbekistan, as a result of multiparty elections to the Parliament held in 1994, twenty-one women or 8,2 percent of the total members of the Parliament were elected deputies. Women emerged in the position of Deputy Chairperson of the Parliament, Chairperson of the Parliamentary Committee on protection of labour and social protection of the population, and Ombudsmen. Two women are members of the Government of the country, with one of them being Deputy Prime Minister. There are also women among trade union leaders, and many women are also holding high-ranking positions within a number of government agencies.

Changes in public consciousness concerning the rights of women is a time-consuming process that requires the development of a special strategy whose realization is impossible without a positive role of the state.

One of the first steps in this direction is an increasingly knowledgeable population in the field of rights and freedoms of human beings, higher levels of legal culture, regarding society in general and women in particular.

The important role in the protection of female equality alongside with governmental bodies is played by women's non-governmental organizations. Practically all women's organizations of the country, despite of distinctions in their programs, consider their main aim as being the realization of the principle of equal opportunities between men and women as well as the improvement of women's status in society. The expansion of a network of women's NGOs, strengthening of linkages between women's organizations, creation of information networks between them domestically, regionally and internationally can become an effective tool of development of women's movement and a strengthening process of rotation of women involved in the political sphere.

Unfortunately, the declared rights are not always carried out in that ideal form as legislation would make one expect. In conditions of transition, there appears to be a set of factors complicating the process of realization, including those of economic nature or those connected with a traditionally low level of legal culture or a generally stereotypical way of thinking. All these factors render the issue of protecting women a very pressing one.

On the first sight, it might seem strange to speak of the protection of the rights of women and the need to disseminate information about their rights at the threshold of the XXI century, when humankind is supposed to have achieved significant improvements in the field of legislative promotion and recognition of human rights.

In Uzbekistan, intense dissemination work is being conducted among the population to ensure legal protection of women through the elimination of certain traditions and prejudices that affect them negatively and restrain their rights. The women of independent Uzbekistan have been actively incorporated into the international women's movement. Delegations from Uzbekistan took part in the Fourth World Conference on Women in Beijing. On the basis of the Beijing Declaration and National Action Plan, the government has developed the Concept Paper on the Improvement of Women's Status. This paper is a basic document creating ten programs on priority issues discussed by the Conference. By now – three years after the adoption of this paper – it has become obsolete. To date, the Secretariat on the Social Protection of Family, Maternity and Childhood (under the Cabinet of Ministers of the Republic) has prepared draft National Platform and Action Plans which have been already discussed at a joint session of governmental structures and NGOs.

Specialized institutions on human rights and NGOs are carrying out regular advising sessions for women, arrange seminars and round tables on women's rights.

In compliance with Clause 2 of the Universal Declaration on Human Rights guaranteeing equality of all people irrespective of sex, the Government of the Republic of Uzbekistan has been arranging a series of activities to promote gender equality since 1996. Since October 1997, it has been taking part in the joint project of the UNDP and the Women's Committee of Uzbekistan titled "On strengthening the capacity of the gender aspect in development of the Republic of Uzbekistan". Within the framework of this project, the Gender and Development Unit has been set up to coordinate gender policies in Uzbekistan.

The Government of Uzbekistan also pays attention to the issue of social protection of women and children. The year 1998 has been declared by the Government as the Year of the Family. Fundamental measures for the implementation of the program "The Year of the Family" are directed towards the improvement of the social and economic situation of women in family and society.

The Women's Committee of Uzbekistan, the largest and most authoritative organization of the Republic together with the National Human Rights Centre, organized between November 1997 and May 1998 thirteen seminars concerning "Women and Law" issues in all provinces of the country, with the participation of over three thousand representatives of women's governmental and non-governmental organizations.

In June 1998, the ODIHR/OSCE together with the Government of Uzbekistan and the UN Regional Programme in Support of Gender in Development in Central Asia and Caucasus organized a regional consultation titled "Women in Public Life". More than sixty representatives of governmental organizations, NGOs and mass media of the countries of Central Asia and Caucasus took part in the Conference's sessions. The key topics were national plans to implement the Beijing Platform of Action, but more general recommendations and comments on the improvement of the situation in the field of women's rights observances in Central Asian states were also made.

Uzbekistan was one of the first states in Central Asia in acceding the Universal Declaration On Human Rights adopted on December 10, 1948, the UN Convention on Elimination of All Forms of Discrimination against Women adopted on December 18, 1979, the UN Convention on the Rights of the Child, and the UN Convention on the Protection of Maternity. All international commitments are being strictly observed. The national legislation of the Republic of Uzbekistan has been brought in line with the international norms concerning the protection of women's rights.

At the same time, it has to be admitted that violence against women all over the world is increasing to a threatening scope. It is not surprising, therefore, that the Declaration on the Elimination of Violence

against Women contains a provision stating that "the States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation and should pursue by all appropriate means and without delay a policy of eliminating violence against women."

In the light of this provision, the issue of strict observance of international and national standards directed against the discrimination and violence against women is of critical importance.

In Uzbekistan, criminal responsibility is stipulated for violence, trafficking in women and sexual abuses against women. There is a special provision in the Criminal Code protecting women against all forms of sexual exploitation and sexual abuses.

Special measures to protect women against trafficking and abduction were adopted. Recruitment of people with the purpose of sexual or other forms of exploitation is dealt with by Article 135 (Section VI) of the Code of Criminal Investigation Proceedings of the Republic of Uzbekistan. Criminal punishment for violation and sexual harassment is envisaged by Articles 118 and 121 of CC of the Republic of Uzbekistan.

In Uzbekistan, prostitution is forbidden. No case of trafficking in women have been registered to date by law-enforcement bodies. Sexual crimes, sexual harassment, prostitution, trafficking in women, violence against women migrants and pornography are part of violence against women being committed by society. Therefore, the National Actions Platform of Uzbekistan emphasizes this point by referring to violence against women as an integral problem whose solution should include the following changes:

- in legislation
- in law enforcement structures
- in public consciousness.

The approach to these issues should be directed towards the elimination of all forms of violence against women and the protection of their rights and interests. In this connection, the institution of Crisis Centres has been created.

However, for Uzbekistan, the above mentioned problems are not so acute and pressing. Thus, the Criminal Code of Uzbekistan contains no special provision regarding the responsibility for trafficking in women. At the same time, Section IV of the Code relates to crimes against human liberties and contains a provision regarding responsibility for the recruitment of people with the purpose of sexual or other exploitation through deceit (Art. 135). It has to be admitted that there were sporadic cases in the Republic when women went abroad for certain purposes disguised as so called shop-tourists. But those incidences have received general condemnation, on the part of law-enforcement bodies as well as public opinion.

Trafficking in women has become a large scale phenomenon all over the world. The international community should now face this challenge by way of a coordinated and concerted response. It is a problem that goes beyond the confines of one country, demanding a global approach.

Preventative measures are needed to stop the phenomenon of trafficking, such as:

- Dissemination of knowledge and coordination of the struggle for the elimination of trafficking in women.
- Development of a special mechanism to promote the prevention of this form of exploitation of women
- Adoption of appropriate strategies and legislation to create necessary regulative means of migration in order to eliminate trafficking in women
- Development of projects for returning home and re-integration of women emigrants exposed to sexual exploitation
- Tougher measures of suppression directed against the persons engaged in this form of profit-making business

## UNDCP Report

UNDCP do not have any current projects or activities that directly relates to the Trafficking in Women and Children. This paper will therefore focus on relevant areas that relate to the field of Trafficking in Women and Children including activities and recommendations on interventions for consideration.

### **Current activities**

The Regional Centre's experience from programmes and activities in the region are relevant in Considering sub-regional communication and collaboration:

#### *Cross-border activities*

UNDCP promotes sub-regional strategies which encourage harmonization of drug control policies as well as sharing information and technical expertise across borders. To strengthen collaborative efforts in the region a Memorandum of Understanding was signed in 1995 by six countries including Cambodia, China, Laos, Myanmar, Thailand and Vietnam. The countries have agreed upon activities addressing the problems of illicit drug production, trafficking and abuse in the sub-region and have adopted a framework for sub-regional collaboration included in the rolling Sub-regional Action Plan on Drug Control for 1995-1998. The countries meet at least once a year to review the drug control situation in the region and the measures undertaken to deal with the illicit drug problems, as well as to adopt recommendations concerning possible future action.

### **Upcoming activities**

#### *Sexual abuse and exploitation of children and youth*

Interagency collaboration is being discussed with ESCAP in relation to the ESCAP Project on elimination of sexual abuse and sexual exploitation of children and youth in the greater Mekong Sub-region. The participating countries are Cambodia, China, (Yunnan Province), Laos PDR, Myanmar, Thailand and Vietnam. The main aim of this project is to strengthen HRD capacities of social service and health personnel to improve their assistance in the recovery, and reintegration process of child victims of sexual abuse and exploitation. The project will involve participation of social service and health personnel from relevant government ministries and NGOs in the participating countries. More details are available through ESCAP.

In consultation with ESCAP a separate drug demand reduction component will be included to address drug abuse problems including prevention, treatment and rehabilitation among sexual abused and exploited children and youth. Substance abuse is considered as an important factor related to both causes and consequences of sexual exploited and abused children and youth, while also demanding the need for capacity building of organizations and professional staff working with children at risk. The main activity is to integrate a module on drug abuse problems into the training curriculum for social service and health personnel to enhance their capacity in drug abuse prevention treatment and rehabilitation of sexual abused and exploited children and youth. Pilot projects at community level including awareness raising on the relationship between drug abuse and sexual exploited and sexual abused children and youth will also be supported.

### **Related activities within the Office for Drug Control and Crime Prevention (ODCCP)**

A Global Project on Trafficking in Human Beings is being developed as a joint action by the Centre for International Crime Prevention (CIPC) and United Nations interregional Crime and

## References

### Reference 1 SAARC Draft Convention

SAARC/SUMMIT.10/CM.20/3.  
ANNEX-III

## DRAFT

### SAARC CONVENTION ON PREVENTING AND COMBATTING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION

The Member States of the South Asian Association for Regional Cooperation (SAARC), Parties to the present Convention,

Emphasizing that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honor of human beings and is a violation of basic human rights,

Recalling the decision of the Ninth SAARC Summit (May, 1997) that the feasibility of a regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored,

Recalling also the relevant international legal instruments relating to prevention of trafficking in women and children, including the Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution of Others, 1949; Convention on the Elimination of all Forms of Discrimination against Women 1979; International Covenant on Civil and Political Rights, 1966; and the Convention on the Rights of the Child, 1989;

Giving due regard to the implementation of the recommendations of the various pertinent International Bodies and Conferences including the Fourth World Conference on Women at Beijing (1995),

Nothing with concern the increasing exploitation by traffickers of women and children from SAARC countries and their increasing use of these countries as sending, receiving and transit points,

Recognizing in this regard the importance of establishing effective regional cooperation for preventing trafficking for prostitution and for investigation, detection, interdiction, prosecution and punishment of those responsible for such trafficking,

Emphasizing the need to strengthen cooperation in providing assistance, rehabilitation and repatriation to victims of trafficking for prostitution,

Have agreed as follows:

## ARTICLE- I

### DEFINITIONS

For the purpose of this Convention:

- 1) "Child" means a person who has not attained the age of 18 years;
- 2) "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes;
- 3) "Trafficking" means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking;
- 4) "Traffickers" means persons, agencies or institutions engaged in any form of trafficking;
- 5) "Persons subjected to trafficking" means women and children victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means;
- 6) "Protective home" means a home established or recognized by a Government of a Member State for the reception, care, treatment and rehabilitation of rescued or arrested persons subjected to trafficking.
- 7) "Repatriation" means return to the country of origin of the person subjected to trafficking across international frontiers.

## **ARTICLE- II**

### **SCOPE OF THE CONVENTION**

The purpose of the Convention is to promote cooperation amongst Member States so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination.

## **ARTICLE-III**

### **OFFENCES**

1. The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and shall make such an offence punishable by appropriate penalties which take into account its grave nature.
2. The State Parties to the Convention, in their respective territories, shall provide for punishment of any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.
3. Any attempt or abetment to commit any crime mentioned in paras 1 and 2 above or their financing shall also be punishable.

## **ARTICLE-IV**

## **AGGRAVATING CIRCUMSTANCES**

1. The State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz.

- a) the involvement in the offences of an organized criminal group to which the offender belongs;
- b) the involvement of the offender in other international organized criminal activities;
- c) the use of violence or arms by the offender;
- d) the fact that the offender holds a public office and that the offence is committed in misuse of that office;
- e) the victimization or trafficking of children;
- f) the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities;
- g) previous conviction, particularly for similar offences, whether in a Member State or any other country.

## **ARTICLE-V**

### **JUDICIAL PROCEEDINGS**

1. In trying offences under this Convention, judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counseling and legal assistance.

## **ARTICLE-VI**

### **MUTUAL LEGAL ASSISTANCE**

1. The State Parties to the Convention shall grant to each other the widest measure of mutual legal assistance in respect of investigations, inquiries, trials or other proceedings in the requesting State in respect of offences under this Convention. Such assistance shall include:

- a) taking of evidence and obtaining of statements of persons;
- b) provision of information, documents and other records including criminal and judicial records;
- c) location of persons and objects including their identification;
- d) search and seizures;
- e) delivery of property including lending of exhibits;



- f) making detained persons and others available to give evidence or assist investigations;
  - g) service of documents including documents seeking attendance of persons; and
  - h) any other assistance consistent with the objectives of this Convention.
2. Requests for assistance shall be executed promptly in accordance with their national laws and in the manner requested by the Requesting State. In the event that the Requested State is not able to comply in whole or in part with a request for assistance or decides to postpone execution it shall promptly inform the Requesting State and shall give reasons for the same.

## **ARTICLE-VI**

### **EXTRADITION OR PROSECUTION**

1. The offences referred to in the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereinafter be concluded, between any of the Parties to the Convention.
2. If a State Party which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the Requested State shall, if so permitted by its laws, consider this Convention as the basis for extradition in respect of the offences set forth in Article III.
3. Extradition shall be granted in accordance with the laws of the State to which the request is made.
4. The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution in accordance with the laws of that State.
5. In States where extradition of their nationals is not permitted under their law, nationals who have committed offences under the present Convention shall be prosecuted and punished by their courts.

## **ARTICLE-VII**

### **MEASURES TO PREVENT AND INTERDICT TRAFFICKING IN WOMEN AND CHILDREN**

1. The State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of offences under this Convention.
2. The State Parties to the Convention shall sensitize their law enforcement agencies and the judiciary in respect of the offences under this Convention and other related factors that encourage trafficking in women and children.
3. The State Parties to the Convention shall establish a Regional Task Force consisting of

officials of the Member States to facilitate implementation of the provisions of this Convention and to undertake periodic reviews.

4. The State Parties to the Convention may also, by mutual agreement, set up bilateral mechanism to effectively implement the provisions of the Convention, including appropriate mechanisms for cooperation to interdict trafficking in women and children for prostitution.

5. The State Parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land, water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

6. The State Parties to the Convention may consider taking necessary measures for the supervision of employment agencies in order to prevent trafficking in women and children under the guise of recruitment.

7. The State Parties to the Convention shall endeavor to focus preventive and development efforts on areas which are known to be source areas for trafficking.

8. The State Parties to the Convention shall promote awareness, inter-alia, through the use of the media, of the problem of trafficking in Women and Children and its underlying causes including the projection of negative images of women.

## **ARTICLE-IX**

### **CARE, TREATMENT, REHABOLOTAION AND REPATRIATION OF THE VICTIMS**

1. The State Parties to the Convention shall work out modalities for repatriation of the victims to the country of origin.

2. Pending the completion of arrangements for the repatriation of victims of cross-border trafficking, the States Parties to the Convention shall make suitable provisions for their care and maintenance. The provision of legal advice and health care facilities shall also be made available to such victims.

3. The State Parties to the Convention shall establish protective homes or shelters for rehabilitation of victims of trafficking. Suitable provisions shall also be made for granting legal advice, counseling, job training and health care facilities for the victims.

4. The State Parties to the Convention may also authorize the organizations to establish such for providing suitable care and recognized non-governmental protective home or shelters maintenance for the victims of trafficking.

5. The State Parties to the Convention shall encourage recognized non-governmental organizations in efforts aimed at prevention, intervention and rehabilitation, including through the establishment of such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

## **ARTICLE-X**

## **IMPLEMENTATION**

The State Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.

### **ARTICLE-X I**

## **HIGHER MEASURES**

The measures provided for in the Convention are without prejudice to higher measures of enforcement and protection accorded by relevant national laws and international agreements.

### **ARTICLE-X II**

## **SIGNATURE AND RATIFICATION**

The Convention shall be open for signature by the Member States of SAARC at the---  
---SAARC Summit at ----- and thereafter, at the SAARC Secretariat at Kathmandu. It shall be subject to ratification. The instruments of Ratification shall be deposited with the Secretary General.

### **ARTICLE-X III**

## **ENTRY INTO FORCE**

This Convention shall enter into force on the -----day following the day of the deposit of the seventh Instrument of Ratification with the Secretary General.

### **ARTICLE-X IV**

## **DEPOSITORY**

The Secretary General be the depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary - General shall transmit certified copies of such instruments to each Member-State. The Secretary -General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article X II.

IN Witness Whereof, the undersigned being duly authorized thereto by their respective Governments. have signed this Convention.

DONE AT -----on this-----day. of ----- One Thousand Nine Hundred and Ninety Eight, in eight originals in the English Language, all texts being equally authentic.

People's Republic of Bangladesh  
Kingdom of Bhutan  
Republic of India  
Republic of Maldives  
Kingdom of Nepal  
Islamic Republic of Pakistan  
Democratic Socialist Republic of Sri Lanka

## **Reference II The Hague Declaration**

### **THE HAGUE MINISTERIAL DECLARATION ON EUROPEAN GUIDELINES FOR EFFECTIVE MEASURES TO PREVENT AND COMBAT TRAFFICKING IN WOMEN FOR THE PURPOSE OF SEXUAL EXPLOITATION**

The Hague, 26 APRIL 1997

#### **1. GENERAL CONSIDERATIONS**

On the initiative of the Dutch Presidency a European Union (EU) Ministerial Conference was held in The Hague on the 26<sup>th</sup> of April 1997 on the question of trafficking in women for the purpose of sexual exploitation.

Representatives from the following candidate countries were present as observer: Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Cyprus.

The EU Member States reaffirmed their commitment to maximize co-operation in the fight against trafficking in human beings, and against trafficking in women in particular, and agreed this Declaration with a view to responding to the concerns of the people of Europe.

They recognized that trafficking in women for the purpose of sexual exploitation is a serious and growing type of international organized crime generating high profits with relatively low forms of risk for traffickers. Over the last years, the issues of trafficking in women has received increasing national and international attention. The Beijing Declaration of the 4<sup>th</sup> UN World Conference on women stressed the urgent need to take action against this specific form of violation of human rights of women.

On the European level initiatives have been taken in the area of trafficking in human beings which include the adoption by the European Parliament of a Resolution on Trafficking in Human Beings in January 1996 and the Proposals for Action to be taken in the Member States, developed within the framework of the Council of Europe.

The Justice and Home Affairs Council has adopted four joint actions to combat trafficking in human beings on the initiative of the Irish Presidency and Belgium:

1. the extension of the mandate of the European Drugs Unit (EDU) in the field of trafficking in human beings;
2. the establishment of an incentive and exchange programme for combatting trade in human beings (STOP-programme);
3. the setting up by EDU of a repertoire of centers of excellence.
4. The joint action concerning action to combat trafficking in human beings and sexual exploitation of children.

The scope of these joint actions covers all human beings.

The Hague Ministerial Declaration focuses on trafficking in women as the particular needs of women and acts of violence against women also require specific actions and responses, as was underlined in the Beijing Declaration of 1995. For this reason a number of initiatives have already been taken on the European level in the field trafficking in women. These include the initiative taken by the European Commission in collaboration with the International Organization for Migration of a European Conference on Trafficking in Women in Vienna (June 1996). This resulted in the Communication on

Trafficking in Women for the Purpose of Sexual Exploitation to the Council and to the European Parliament of November 1996, following up the recommendations of the Vienna Conference.

In line with the need for a joint and co-ordinated approach within the member States of the European Union and building on the above mentioned initiatives, the following Declaration aims to present a set of coherent and concrete measures. This Declaration covers both the field of Equal Opportunities for Women and Men, and the field of Justice and Home Affairs. It recommends measures at national and European level to prevent trafficking, to encourage and assist victims to report the trafficking to the police, to detect, investigate and prosecute traffickers, to provide the victims with the adequate protection, appropriate assistance and support and to ensure the appropriate 'fair treatment' response on the part of the criminal justice systems.

For the purpose of this The Hague Ministerial Declaration trafficking in women relates to any behaviour which facilitates the legal or the illegal entry into transit through residence in or exit from the territory of a country, of women for the purpose of gainful sexual exploitation by means of coercion, in particular violence or threats, or deceit, abuse of authority or other pressure which is such that the person has no real and acceptable choice but to submit to the pressure or abuse involved.

Trafficking in women constitutes a flagrant violation of women human rights that can only be tackled through a multi-disciplinary and co-ordinated approach involving all concerned players, NGOs, social, judicial, law enforcement and migration authorities. It requires both national, European and international actions and cooperation. However, the main responsibility lies with the Member States. Since the role of NGOs is broadly recognized as agents for change and source of support for the women involved, they should be supported by the governments of the Member States.

The objective of the present The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in women for the Purpose of Sexual Exploitation is to encourage further action in the field of prevention, investigation and prosecution, and appropriate assistance and support in line with the existing legal and budgetary frameworks and competences at national and European level.

This Declaration, drafted in the spirit of the Beijing Platform for Action, is without prejudice to obligations undertaken by Member States under international conventions they have ratified, inter alia, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the 1979 Convention on the Elimination of all Forms of Discrimination against women.

## II. EUROPEAN AND INTERNATIONAL CO-OPERATION IN THE FIELD OF PREVENTION, INVESTIGATION AND PROSECUTION, APPROPRIATE ASSISTANCE AND SUPPORT

### II. 1. Co-operation between the EU Member States

- Promote an active general co-operation process, in accordance with the integrated multi-disciplinary policy proposed in the Commission's Communication on trafficking in women of November 1996, among the Member States and institutes of the European Union.
- Develop a co-ordinated ongoing action to enhance co-operation, in particular in the judicial field, in accordance with the joint action of February 1997.
- Ensure close monitoring by the Justice and Home Affairs Council with a view of reaching its full implementation by the end of 1999, of the above-mentioned action and in particular the national measures relating to the criminalisation of certain types of behaviour, the penalties and, where

appropriate, the administrative measures, as well as the adequate investigation powers and techniques enabling the offenses to be investigated and prosecuted effectively.

- Develop exchange of information on criminal networks by making full use of the Europol drugs-unit's (EDU) facilities and its analytical support, pending the entry into force of the Europol convention.
- Make full use of existing community resources, in order to promote NGO networks at European level and NGO pilot projects for supporting victims of trafficking in the Member States and encourage the cooperation of European NGO networks and the European Commission on a regular basis.
- Make full use of the STOP multi-annual Programme adopted in November 1996 by the Justice and Home Affairs Council, devoted to persons responsible for combating trafficking in human beings and the sexual exploitation of children in order to fill the gap identified e.g. in the fields for data and research, dissemination of information between authorities and and training.

#### II.2 Co-operation between EU Member States and candidate countries

- Improve co-operation with the candidate countries in the framework of the structured dialogue, in particular in the field of Justice and Home Affairs.
- Make full use of the PHARE and LIEN Programmes, as well as promoting the participation of the Central Eastern European Countries in the STOP Programme.

#### II.3 Co-operation at European level and with countries of origin

- Promote an active co-operation between Member States of the European Union, the institutions of the European Community, and the Council of Europe in order to a co-ordinated ongoing action to prevent and combat trafficking in women and monitor the implementation of the related policies.
- Develop existing European Community co-operation programme with countries of origin and use other existing budget lines for funding actions by NGOs, to combat trafficking in women such as assistance and social excursion programmes, and special measures facilitating reintegration in the country of origin.

#### II.4 Co-operation with the UN system and Interpol

- Contribute on a regular basis, to the work of the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) by reporting on measures taken, including on the implementation of article 6 of the CEDAW Convention, and obstacles encountered in the area of combating trafficking in women and providing assistance to victims.
- Encourage and support the work in the area of trafficking in women of the UN Special Rapporteur on Violence against Women, who has explored these acts as one of the causes of violation of the human rights and fundamental freedoms of women and girls, providing her with all relevant information.
- Make full use of the Interpol facilities in particular in relation to countries of origin and of transit.

### III. ACTION TO BE TAKEN AT THE NATIONAL LEVEL IN THE FIELD OF PREVENTION, INVESTIGATION, PROSECUTION, APPROPRIATE ASSISTANCE AND SUPPORT

Under International law every state has the duty to respect and to ensure respect for human rights, which includes:

- to prevent violations;
- to investigate violations, and take appropriate actions against the violators;
- to afford remedies and appropriate assistance to those who have been injured by such violations.

As a consequence, measures should aim at prevention, criminal investigation and prosecution, appropriate assistance and support for the women involved, including opportunities to redress. Only within the framework of an integrated approach on all levels, can trafficking in women be effectively prevented and combated.

#### III.1 PREVENTION

Member States' action points:

##### III.1.1 Information campaigns

- Organize or encourage and support information and prevention campaigns in the countries of origin and destination aimed at clarifying the opportunities, limitations and rights in the event of migration, so as to enable women to make informed decisions and to seek help in case of trafficking.
- Promote the involvement of embassies and consulates in the countries of origin in information and prevention activities
- Programmes should be developed in co-operation with NGOs, both in countries of origin and destination, where they are in the best position to reach the women involved. To this aim NGOs should be provided with effective support, inter alia through development co-operation.

##### III.1.2 Training

- Support training and capacity building programmes on behalf of the police, the judiciary and the other practitioners in the fields of legal, psychological, medical, and social assistance and promote institutional co-operation.
- Ensure training of health and other professionals in order to enable them to recognize and treat victims of trafficking adequately.

##### III.1.3 Co-operation with countries of origin

- Promote through multinational and bilateral agreements with countries of origin the improvement of women's social, economic and legal status in the countries of origin, by providing support to government agencies and NGOs that work towards the empowerment of women.
- Support appropriate training and capacity building programmes.

- Promote and facilitate the exchange of information between relevant organisations in the countries of origin and destination.
- Provide for assistance and support programmes for women of groups most at risk, including education, basic skill training, advice and counselling for employment opportunities, and exchange of best practices, in countries of origin.

#### III.1.4 National Rapporteurs

- Provide or explore the possibilities for the appointment of national rapporteurs, who report to Governments on the scale, the prevention and combatting trafficking in women.
- Develop criteria for reporting on the scale, nature and mechanisms of trafficking in women and the effectiveness of policies and measures concerning this phenomena.
- Encourage the co-operation of national rapporteurs on a regular basis.

#### III.1.5 Research

- Initiate, encourage and support policy-oriented research, in particular through the STOP programme, based on the minimum definitions as formulated above so as to collect comparable data with regard to 1) the scale, nature and mechanisms of trafficking in women; 2) the needs and perspectives of the women involved, and 3) the effects of policies and measures, considering that it is generally agreed that trafficking in women is substantial problem and that there is a lack of (comparable) information, including information on the impact of measures, caused among others by the different definitions employed.
- Encourage and support co-operation in policy-oriented research activities so as to ensure comparability of data European and International level.

### III.2 INVESTIGATION AND PROSECUTION

Investigation and prosecution of trafficking in women must be targeted at offenders and not at those who are the victims of such practices.

A critical condition to an effective detection, investigation and prosecution of traffickers is the readiness of the women concerned to report to the police and act as a witness.

Practice shows that women often refrain from reporting to the authorities, as women are faced with arrest, detention and expulsion as illegal aliens and/or prostitutes.

Therefore there is a need for measures to encourage and assist victims to report to the police against their offenders and to act as a witness, to upgrade and ensure the appropriate 'fair treatment' response on the part of criminal justice systems, e.g. through the development of specific guidelines for the police and public prosecutors, and to train and educate the policy and other judicial officials dealing with victims of trafficking.

Member States' action points:



### III.2.1 Measures to encourage and assist victims to reports to the police and to act as witness

- Provide, in appropriate cases, where compatible with national law, a temporary residence status during criminal proceedings pursuant to having been victim of trafficking to enable women to make a complaint to the police and to be available where required by the Member States' criminal justice system. During this time they should have access to social, medical, financial and legal assistance.
- Enable victims of trafficking in women to defend their interest during criminal proceedings by providing for the legal advice and/or other appropriate assistance, and for competent and qualified translators.
- Provide for adequate victim support, including safe shelter, medical and social assistance, counselling in their mother language or in another language which they understand and speak sufficiently, and adequate financial support.
- Ensure that no action, including detention, is taken for immigration reasons which might undermine the value of victims of trafficking as witnesses in criminal proceedings.
- Encourage and support the development of co-operation between the victims, law-enforcement agencies and NGOs who assist victims.

### III.2.2 Measures to upgrade and ensure the appropriate 'fair treatment' response on the part of criminal justice systems

- Ensure that all practitioners involved in any capacity with criminal justice processes are aware of the need to take action to remove gender bias and discrimination and strengthen the position of women.
- Enable that, with the agreement of the victims, female practitioners are employed to the extent possible on various capacities dealing with female victimization.
- Protect witnesses who provide information concerning trafficking in women against all forms of direct and indirect threat, pressure or intimidation and ensure proper and effective protection of witnesses before, during and after criminal proceedings, where the competent authorities deem this necessary and extend this protection also to the parents children and other close relatives of the witnesses if necessary in order to avoid any form of indirect pressure.
- Allow, if the threat is extremely serious, a change of identity for the witness and, if necessary, for members of the immediate family.
- Promote the notification of victims, upon their request, of any form of release of the perpetrator at any time after the perpetrator was arrested or taken into custody during official proceedings.
- Promote women's safety and respect for her integrity during the criminal proceedings on trafficking and prosecution.
- Develop methods of investigation, detection and the gathering of evidence that are not gender-biased and do not overburden the victim.

- Ensure that the public prosecution and the police promote that the personal history, the alleged character or the current or previous occupation of the victim shall not be used in itself against her nor serve as a reason to disqualify the victim's complaint.
- Promote that the privacy of the victim is protected by guaranteeing that the victim's history of her being trafficked shall not of itself be used against her, particularly with regard to the right to freedom of travel, marriage, search for gainful employment.

### III.2.3 Measures to improve the repression of trafficking in women

- Ensure that the training and educational programmes for authorities responsible for combating trafficking in women, such as Ministerial Departments, police services, the judicial authorities, visa issuing authorities as well as public bodies with special responsibilities in this area, take due account of the special situation and needs of women victims of trafficking.
- Ensure the availability of police personnel competent to deal with the complexities and victim sensitivities involved in this type of criminality.
- Ensure, as far as reasonably practicable, women's access of female police officers.
- Ensure that information concerning persons convicted of offences relating to trafficking in women, and information which could be useful for the investigation and prosecution of such offences, is organised in a way which is accessible and can be effectively used and exchanged with other States. In that context, the feasibility of a specialized data-base could be examined with regards to legislation and police practice and procedures for every Member State, including data concerning court cases, investigated cases and means of investigation.
- Adopt measures that will make possible:
  - the confiscation, where appropriate, of the instruments and proceeds of trafficking in women ;
  - where appropriate and as provided by the administrative or criminal law of the Member States, the temporary or permanent closure of establishments, which have been used or intended for trafficking in women

## 111.3 APPROPRIATE ASSISTANCE AND SUPPORT

Trafficking in women may have major consequences for the women involved, both material and non material, which are not accommodated by criminal investigation and prosecution of the offender.

Appropriate assistance and support not only serve to remove or redress the consequences but also, by strengthening the position of women, contribute to the prevention and deterrence of trafficking.

Member States' action points:

### 111.3.1 Information

- Provide information about access to health care and to social services for the women involved and about available procedures for compensation through public and private mechanisms.

### 11L3.2 Civil action

- Ensure access to civil action against the offender for compensation to victims of trafficking in women.
- Ensure that victims are given appropriate assistance to enable them to defend their interests before the Courts.

### 111.3.3 Appropriate assistance

- Acknowledge that the mobilisation of resources, both public and private, including resources from innovative sources of funding, may be necessary to compensate for any economically assessable damage resulting from trafficking such as:
  - physical or mental harm, including pain, suffering and emotional distress;
  - material damage;
  - costs required for legal or expert assistance.
- Make readily available to the extent possible to competent authorities all information relevant to the determination of claims for compensation.
- Provide for assistance in the issuing of new identity-papers, where necessary...
- Provide, if necessary, for a residence status on humanitarian grounds.

### 111.3.4 Support Mechanisms

- Mobilise effective, immediate and confidential medical, social and psychological care, including safe shelters subject to national provisions.
- Within the framework of development cooperation, assist countries of origin in organizing facilities for victims returning home, the central features of which should be confidentiality, education and training to encourage economic independence and social integration. The problems that victims of trafficking face when they return to their home country, such as the risk of being rejected by their families or community, being unable to find viable employment, becoming social outcasts, being subject to harassment, reprisals or persecution from the side of the perpetrators and/or the authorities, should thus be minimized.
- Encourage NOOs working in direct contact with victims of trafficking in women to ensure that appropriate assistance and support will take place in accordance with the needs and interests of the victims.

The Hague, 26 April 1997

Unanimously adopted by EU Ministers and State Secretaries of Justice and Equal Opportunities of the EU Member States on the initiative of the Netherlands Presidency in conjunction with the European Commission

Ad Melkert  
Minister of Social Affairs and Employment  
Co-ordinating Minister of Emancipation Policy

Winnie Sorgdrager  
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## **Asian Women's Fund**

The Asian Women's Fund was established in July 1995 by prominent citizens concerned about the continued suffering of the victims of WW2 Japanese military sexual slavery, with the support of the Government of Japan. The primary aim of the Fund is to extend atonement and support to those who suffered as 'wartime comfort women'. The victims have suffered in silence for so long and are now of an advanced age, and it is therefore our sincere wish to act urgently, in accordance with their needs, to alleviate their pain in whatever small way we can. At the same time, recognising that prevailing attitudes of discrimination and violence against women are part of the background to the suffering inflicted on the 'comfort women,' the second pillar of the work of the Fund is to address contemporary violations of the dignity and rights of women.

Our activities include:

- hosting of international forums on contemporary issues on women;
- financial support to NGO projects addressing contemporary women's human rights's issues
- research and ananlysis into the causes and prevention of violence against women, and other women's human right's issues, and;
- counselling for women victims of violence and other human right's violations

For further information, or a list of publications, please contact us at the address below, or visit our site on the world wide web.

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