

# **NGOs statements delivered to the 11<sup>th</sup> Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions Suva, Fiji, 31 July – 3 August 2006**

## **NGOs statement on NHRIs-NGOs cooperation**

**Presenter:** Anselmo Lee, Forum Asia

We would like to thank the Asia Pacific Forum of National Human Rights Institutions (APF) for giving us the opportunity to address the distinguished delegates at the 11<sup>th</sup> Annual Meeting of the Asia Pacific Forum. This initiative adds to the series of positive advances within the APF in recent years which includes efforts to facilitate dialogue between NHRIs and NGOs.

The joint statement being delivered today by organizations from Fiji, India, Indonesia Malaysia, Maldives, Mongolia, Nepal, Philippines, South Korea, Sri Lanka, Thailand and regional and international NGOs, congratulates the work of the APF which has steadily gained momentum towards better protection and promotion of human rights in the region and around the world. We are honored to continue our engagements with the national human rights institutions along this line, toward the full realization of the Kandy Declaration of 1999 on NHRI-NGO cooperation.

We seek to contribute to the discourse on the development of the role and effectiveness of national human rights institutions, by submitting the following observations and recommendations.

### **Observations:**

- 1.** While majority of NHRIs focus on promotion of human rights, we reiterate that the situation on the ground in most Asia-Pacific countries, as well as essential requirements of complementarity with international human rights mechanisms, must affect a significant amount of protection functions for NHRIs. This is especially needed to generate a safe working environment for human rights defenders.
- 2.** There is increasing international recognition being given to NHRIs as key actors in promoting and protecting human rights, which we welcome as a positive development. Such recognition also places greater expectations on NHRIs from partners and victims and we believe it is crucial for NHRIs to live up to these expectations from victims.
- 3.** While we welcome the efforts by APF to facilitate better participation and contributions of NGOs at its annual meeting, we believe that effective NHRI/NGO cooperation is rooted on national level cooperation. Given the important role that NHRIs play as an interface between government and civil society, NHRIs must give greater emphasis to enhancing regular, dynamic and institutionalized mechanisms of dialogue and cooperation with human rights defenders as well as the general public on the work of NHRIs, their mandates and approaches.

4. As more governments are engaging in consulting human rights defenders prior to their participation at important international forums, we believe that NHRIs could also move towards a similar and even more consistent and effective mode of engagement with human rights defenders with regard to their participation in key international forums.

5. We note serious concerns regarding independence of the NHRC and the non transparent and non participatory appointment process of commissioners due to Executive interference, as currently evident in Sri Lanka and Malaysia. There is a need for APF to learn the lesson from the Nepal Human Rights Commission appointment crisis in 2005 and take necessary measures in securing the independence of its institution members.

### **Recommendations:**

In view of the review and adoption of APF's strategic plan for 2007 to 2009, we would like to contribute the following proposals towards laying the groundwork for the institutionalization of essential engagements between human rights institutions and human rights defenders as well as dialogue and consultations with the general public. It is emphasized here that our recommendations require sustained equal consultation and participation of all human rights defenders, including women human rights defenders and Lesbian Gay Bisexual Trans-sexual/gender, and Intersex activists, indigenous people, ethnic/religious minorities at all levels.

#### ***At the national level:***

Increase institutionalize participation and consultation with human rights defenders and other stakeholders in the appointment of commissioners, the work of NHRIs, in particular its policies and decision-making functions.

#### ***At the regional/ international level:***

Institutionalize mechanism(s) to consult/have dialogue with human rights defenders prior to NHRI appearances at important human rights forums as well as to conduct post-event debriefings. These include various UN forums such as Human Rights Council (HRC), Commission on Status of Women (CSW) and other regional/sub-regional human rights promotion and protection mechanism(s) or initiative(s).

#### ***And at the APF level:***

a. Ensure that members engage human rights defenders at the national level to discuss issues and concerns prior to annual APF meetings as well as post-meeting briefings on decisions made, possible cooperation and follow ups.

b. Create a permanent agenda called "*Reports from Non –Governmental Organisations*" in its annual meetings to enhance cooperative efforts with NGOs.

We reiterate the importance of the independence of NHRC and its transparency/public representation in the appointment process. We welcome the initiative from the ICC that the NHRIs works towards establishing the periodic re-accreditation process in compliance with the Paris Principle. We call for APF to adopt a similar process of re-accreditation which will enhance the credibility of the APF.

Finally, we look forward to a sustained constructive engagement with the APF in line with its objective of establishing regional and sub-regional mechanisms for effective promotion and protection of human rights in the Asia Pacific region.

***National Organisations:***

Aminhan, Philippines  
Center for Human Rights and Development (CHRD), Mongolia  
Fiji Women's Rights, Fiji  
Fiji Women's Crisis Centre, Fiji  
Femlink, Fiji  
Human Rights Working Group of Indonesia (HRWG), Indonesia  
Indonesian Legal Aid and Human Rights Association (PBHI), Indonesia  
Informal Sector Service Center (INSEC), Nepal  
Law and Society Trust (LST), Sri Lanka  
Maldivian Detainee Network, Maldives  
National Council of Women, Fiji  
Philippines Alliance of Human Rights Advocates (PAHRA), Philippine  
People's Watch - Tamil Nadu (PWTN), India  
Voice of Malaysia (SUARAM), Malaysia  
Women's Action for Change, Fiji.  
Women's Rehabilitation Centre (WOREC), Nepal

***Regional/ International Organisations:***

Amnesty International (AI)  
Asian Forum for Human Rights and Development (FORUM-ASIA)  
Asia Pacific Forum on Women, Law and Development (APWLD)  
CARAM ASIA  
International Service for Human Rights (ISHR)  
Pacific Concerns Resource Centre (PCRC)  
Save the Children

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## **NGOs statement on Fiji**

**Presenter:** Virisila Buadromo, Chairperson NGO Coalition on Human Rights

**Endorsed by the Fiji NGO Coalition on Human Rights members participating at the meeting**  
*Citizens' Constitutional Forum, femLINKPACIFIC: Media Initiatives for Women, Fiji Disabled People's Association, Fiji Women's Crisis Centre, Fiji Women's Rights Movement, National Council of Women Fiji, Women's Action for Change*

As the Chairperson of the Fiji NGO Coalition on Human Rights, I thank the APF for giving us this opportunity for direct participation in this process. I also extend a warm welcome to you all in Fiji on behalf of the 13 diverse organisations that make up our current membership.

The Fiji NGO coalition on Human Rights was born in 1995 out of the collective struggle for accessible, clean and safe access to water – a fundamental human right. Interestingly, this fight continues today as the Government's 'Charter Committee on the Incorporation of Water' formulates a plan that will determine our future. Alarming there is not one single human rights organisation representative on that Committee.

This presentation highlights four key areas: gender and sexuality; affirmative action; right to information and the adequate resourcing of the Fiji Human Rights Commission.

A critical area that needs special and immediate attention is the elimination of violence against women. A Fiji Women's Crisis Centre survey conducted in 1998 revealed that 66% of women have experienced physical abuse in their own homes. Forty two percent of those surveyed experienced such abuse while pregnant. This has a direct impact on women's participation at all levels of decision-making. A glaring example of gaps between stated government positions and the reality is the TOTAL non-representation of women on the Government national working group that is dealing with gender equality issues and directly feeding into Fiji's national strategic plan for the next five years. This invisibility of women is an indication of the Government's profound disrespect of women's participation in Fiji's development.

We reiterate here that special emphasis needs to be paid to rural women, the disabled, ethnic minorities, and lesbian, gay, bisexual and transgender people.

Fiji's Constitution is one of only five in the world that includes sexual orientation under the Bill of Rights. Therefore, one of the key priorities of all human rights defenders in Fiji must continue to be protection and promotion of the rights of people with diverse gender and sexuality who currently experience high levels of violence, discrimination and social marginalisation in Fiji.

The FHRC plays an important role in this, but is however only as effective as the will of the Commission and resources at its disposal. For example, while the individual complaints mechanism is a potentially powerful tool for human rights defence, there are very limited resources for activation of such a mechanism when human rights violations occur.

In Fiji, the most active violators of LGBT people are non state actors such as some religious bodies and certain fundamentalist Indigenous groups, and the wider community, unfortunately supported by conservative elements within government and the civil service. Such groups continue to call for the criminalisation of homosexuality in Fiji, and the removal of sexual orientation from the Bill of

Rights. Meanwhile, sexual minorities continue to experience great violence and social marginalisation from their families, peers and wider community.

Accordingly, NGO human rights defenders in Fiji increasingly realise that comprehensive gender and sexuality rights are not a distraction or addition to traditional HR work, but a necessary, logical and critical development of such. Accordingly, we commend the HR institutions of Australia, NZ, Indonesia, Korea and Fiji for their recognition of sexuality rights as a critical and integral HR issue.

Fiji also has a pervasive problem of racism and inter-ethnic tension, especially between the country's two largest ethnic groups, indigenous Fijians and Indo-Fijians, or Fijians of Indian descent. One of the modern manifestations of this problem is a current affirmative action programme for the benefit of the majority indigenous Fijian population that is:

- Not based on genuine need;
- Not means tested; and
- Not adequately monitored for effectiveness and efficiency.

The Fiji human rights commission recently completed an inquiry into the affirmative action programmes currently maintained by the government of Fiji. The result was a report that confirmed the views of non-governmental organisations, finding that the majority of the affirmative action programmes contravene Fiji's constitution.

Instead of refusing to accept this report and accusing the Commission of bias, it would be indeed an indication of their human rights commitment, for the Fiji government to instead make the report of the Fiji Human Rights Commission a core source document in its upcoming review of the affirmative action programmes.

Non-governmental organisations commend the report for the strength of its statistical and legal analysis, for dispelling the myth that all indigenous Fijians are disadvantaged, and for clearly identifying the national and international legal standards that affirmative action programmes in Fiji must meet.

Chairperson, as we know, democratic channels of information and communication provide an integral foundation for a more open and inclusive society enabling citizens to meaningfully exercise their rights.

However, in today's globalized information society we are aware that people living in rural setting, people with disabilities, children and women and minority and marginalized groups are often left out and are not aware of the policies, practices and procedures of the public bodies and how to utilize their services because information is not available to them in a language that they are able to understand or a format which is accessible, or targeted to their needs.

We therefore call on the APF to support NGOs working for the full implementation of Freedom of Information legislation as well as support the need for positive regulatory frameworks and ICT policies to support the work of community media practitioners. We highlight the work of community radio broadcasters, persons with disabilities, and their work to ensure the use of appropriate and accessible Information Communication Technology as well as diversity of media forms, including traditional media, theatre/drama in human rights education and other diverse advocacy initiatives.

Friends from the region, Fiji is fortunate to be the only Pacific Island country to have its own human rights commission. The commission, with limited resources has served the Fiji public well these last seven years of its existence. However their success has created more demand for their work and put

more strain on its resources particularly in its work relating to the resolution of individual, group and community human rights complaints.

The Commission remains one of the few windows available to poor individuals and communities in seeking redress against human rights abuses as protected under the Bill of Rights of the Fiji Constitution. Non-Government Organisations urge the Fiji Government to increase its budget allocation to the Commission to a level appropriate to its current needs and future projections.

The Fiji Government and its civil service currently lack a clear understanding and appreciation of the vital constitutional role and powers of the Fiji Human Rights Commission. Recent outrage and unfounded allegations by our Prime Minister's Office and senior civil servants in reaction to the recent FHRC report on the current Affirmative Action Programme is an example.

Human Rights compliance by Government departments in the past has met difficulties, obstructions or delays by senior civil servants. Non Government organisations therefore urge that part of the resources mentioned and requested above should be channeled to educate civil servants and MPs on human rights issues and concerns, as well as encourage a more positive appreciation of the roles & powers of the FHRC.

Non-government organisations wish to see coordination between the FHRC and the government of Fiji – respecting always the Commission's independence - as well as effective follow-up by relevant government agencies on the work done by the Commission. It is only through this coordination that the Government and people of Fiji can fully enjoy the benefits that the Fiji Human Rights Commission has to offer.

Chair, in conclusion, the true indicator of State commitment to human rights is the amount of prioritised investment in technical, financial and human resources as was reiterated yesterday by the keynote speakers and in many country reports.

Thank you, and best wishes for a successful and productive conference. May this be a genuine opportunity for the critical concerns of Pacific island Human Rights Defenders to be more fully represented in the greater work for human rights in the Asia –Pacific region.

## **NGOs statement on the Pacific**

**Presenter:** Sharon Bhagwan Rolls, Coordinator – femLINKPACIFIC: Media Initiatives for Women

*Preamble:*

*The following statement was drafted in consultation with the participating Pacific based NGOs attending the above forum, including along with representatives of the Fiji NGO Coalition on Human Rights: Citizens' Constitutional Forum, femLINKPACIFIC: Media Initiatives for Women, Fiji Disabled People's Association, Fiji Women's Crisis Centre, Fiji Women's Rights Movement, National Council of Women Fiji, Women's Action for Change in consultation with the representative of the Pacific Concerns' Resource Centre.*

*We noted from the outset of convening as NGO participants that while we, the Fiji participants have the privilege of having our own national human rights institute in our country, which has assisted in enabling our participation it was important to provide a Pacific statement of solidarity to ensure future APF meetings enable broader Pacific Island participation:*

Noting that in October 2005, Forum Leaders endorsed the Pacific Plan for Strengthening Regional Cooperation and Integration,

We reiterate that the upholding of Human Rights principles is integral to development and should not be discounted by national policy makers as an additional and unnecessary encroachment on national resources.

We recognize that in many of our Pacific countries, as young independent states that our traditional and elected leaders continue to struggle with the incorrect notion that human rights are foreign principles and at odds with our traditional and cultural practices and values. Yet they continue to turn a blind eye to the existing institutional, social and economic barriers which negatively impact on the status of women and children, as well as sexual minorities.

We reiterate that the recent internal conflicts, in particular in the Melanesian sub region have created additional obstacles to the advancement of human rights specifically the participation of women in all levels of decision-making and the peace process. We therefore welcome the incorporation of the UN Security Council Resolution 1325 (Women, Peace and Security) into the Pacific Plan

Chairperson, Pacific people continue to face the challenges of globalization including the agenda of the international war on terror which could serve to impede rather than support the work of Pacific Human Rights Defenders (HRDs):

We are concerned that there remains inadequate representation of the realities of Pacific Island Human Rights Defenders – including women, youth, the disabled, sexual minorities and persons still struggling for the right to self determination.

We therefore call on the Asia Pacific Forum of National Human Rights Institutions to assist in the work of the Pacific Human Rights Defenders and to assist in creating a more enabling environment to:

- a) support the advancement of the work of women's human rights defenders, in particular rural and under-served women, women with disabilities, young women, and a special emphasis on women from minority groups – including ethnic and sexual minorities.
- b) assist Pacific Governments to ratify and implement the International Declaration on Disability, incorporating the commitments of the Biwako Millennium Framework.

- c) assist Pacific Governments (and we welcome the New Zealand Human Rights Commission initiative to date) to establish National Human Rights Institutions AND also ensure the effective participation of Pacific HRDs at future APF conferences .
- d) Encourage Pacific Governments to seek membership to the new UN Human Rights Council, which is now the peak inter-governmental forum on the development and promotion of international human rights law.
- e) assist Pacific Governments to develop and implement relevant human rights education programmes which reflect the realities of Pacific peoples, especially those living in rural and remote regions, as this will assist in creating a society where human rights are harmonized into the national development frameworks.

## **NGOs statement on the human rights of indigenous peoples and the human rights of people with disability**

**Presenter:** Rex Rumakiek, PCRC

I have the pleasure to present to this Forum two other important concerns of the Human Rights Defenders in the NGO community:

- (1). DECLARATION ON THE RIGHTS OF THE INDIGENOUS PEOPLES
- (2). HUMAN RIGHTS OF PEOPLE WITH DISABILITY

We, delegates representing Asia – Pacific Non Governmental Organisations attending the Eleventh Annual Meeting of the Asia Pacific Forum welcome the decision taken by the Human Right Council on 29 June 2006 to approve the Draft Declaration on the Rights of Indigenous Peoples. It is a great relief to Indigenous Peoples and indeed to the International community. The Draft Declaration will now be presented to the UN General Assembly later this year for adoption.

We fully support the decision because of the fact that it has been on the UN agenda for too long. Negotiations began 11 years ago (1995) when the Draft Declaration was produced. The HRC initially aimed to have the Declaration adopted by the end of the International Decade of the World's Indigenous Peoples in 2004. This did not happen because of the lack of consensus. Subsequently, a Second Decade of World's Indigenous Peoples has been declared.

The Declaration covers many issues ranging from education, health, gender, and even utilization of land and resources. However, we would like to draw your attention to Article 3 that covers the Right to Self-Determination. Mr. Chairman, self-determination could mean different things to different people. For some it is the right to decide on how their lands, resources and genetic material should be utilized. To others it is political freedom to govern themselves. This Declaration would contribute to the realization of these rights.

We call on the members of the Forum to support the Declaration on the Rights of Indigenous Peoples both individually and collectively and take necessary steps to ensure endorsement by member countries for its ratification in the UN General Assembly. Many States in the Asia Pacific region have approved the Declaration and others abstained during the voting in the Human Rights Council. We urge members of the APF to get their Governments to support the Declaration fully when it comes before the General Assembly.

Though not binding, it is our hope that the ratification of the Declaration on the Rights of Indigenous Peoples will contribute to a better and constructive working relationship between States and Indigenous Peoples.

We are also aware of the progress made on the Convention on the Human Rights of people with Disabilities. We urge national institutions and States to work for the completion of this Convention this year.

## **NGOs statement on education**

**Presenter:** Glenn Bond, Save the Children Australia

Participating NGOs wish to thank the APF and delegates for the opportunity to contribute to the discussion on the relationship between NHRIs and the Right to Education. NGOs welcome the reference to the Advisory Council of Jurists concerning the right to education, recognising that access to education is both a fundamental human right in itself and a critical means of realising other human rights. There exists an opportunity to build upon existing partnerships and models to strengthen efforts made in realising this right across the Asia-Pacific.

### **Clarifying the Issue**

The place of education in realising human rights is open to interpretation depending on the priorities and drivers of a particular government, agency or institution. NGOs participating in this meeting suggest the Right to Education must be considered and addressed in three parts:

- *The Right to Education:* commonly described in terms of the availability and accessibility of basic education for all children. Its interdependence with other rights is well documented, for example availability and accessibility are directly constrained where water is in poor supply or where the money is not available to meet basic costs. Furthermore, education is often recognised as a pre-cursor to the achievement of national goals (such as poverty reduction) and international goals (such as the MDGs)
- *Human Rights Within Education:* the application of human rights principles *within* education in terms of the acceptability and adaptability of education opportunities
- *Human Rights through Education:* where education is employed as a tool to promote awareness and the realisation of other human rights.

Across the Asia Pacific there are also key groups of children that are particularly vulnerable to total exclusion from education rights. These include children of undocumented migrant workers, children with disabilities, refugee children, unregistered children and internally displaced children.

### **Existing Expertise and Models**

Much work has already been done on the component aspects of the Right to Education and government commitments are embodied in the 1993 Vienna Programme of Action, the 2000 World Education Forum Dakar Framework for Action, and in Millennium Development Goals 2 and 3. We note that the General Assembly (Res 59/113B) adopted a revised draft plan of action for the first phase (2005–2007) of the World Programme for Human Rights Education in July 2005. We draw the APF's attention to the collaborative nature of this model where NGOs and NHRIs assist relevant MoEs (as lead agents) in implementing the program.

Moreover, NGOs participating in this meeting ask that our expertise in the practical implementation of Education Rights tools and strategies be recognised. NHRIs and NGOs may take mutual benefit from a relationship where the NHRIs actively support and advise NGO work in education at the community level. Simultaneously, the actions and activities of NGOs on the ground can promote the functions of NHRIs within their constituent communities. The relationship between the Fiji HRC and local NGOs undertaking grass roots HR education provides an example of such collaboration in practice.

### **Actions for the APF and member NHRIs**

NGOs ask that the APF and NHRIs:

- Recognise the three-fold nature of the right to education
- Monitor their governments' performance in relation to the right to education, including its availability, accessibility, acceptability and adaptability.

- Reflect and promote the WPHRE in its' activities and planning around education
- Promote the partnership model, led in general by the relevant MoE, where NHRI and NGOs are similarly consulted and recognised in planning
- Within this partnership model, to promote and monitor mutually respectful and advantageous partnerships between NGOs and NHRIs when interacting with communities on education issues

And that

- NHRIs report on WPHRE collaboration with NGOs and MoEs in their next report to the APF, and are supported in this task by the APF Secretariat.

And finally

- We remind NHRIs that they are uniquely positioned to promote and forward ESC rights in local settings, including the right to education.

## **NGOs statement on torture and the death penalty**

**Presenters:** Kishali Pinto, Law Society Trust, Sri Lanka

Given the significant role that NHRIs play as the defenders of international human rights standards, we the NGO participants of the Asia Pacific Forum call upon the NHRIs to take effective action to prevent any undermining of the absolute prohibition against torture and the non-refoulement principles, internationally, regionally and domestically.

Further, being deeply concerned about the endemic practices of torture in the Asia Pacific region, we call upon NHRIs to formulate strategic plans of action along the following lines.

1. To prevail upon Governments to ratify the International Covenant on Civil and Political Rights (and its 1<sup>st</sup> Optional Protocol), Convention Against Torture (and its Optional Protocol) and the Rome Statute.
2. To ensure that necessary domestic legislation is enacted incorporating the principles of the CAT.
3. Encourage NHRIs to rigorously monitor places of detention as part of the implementation of the Optional Protocol to CAT.
4. To implement the comprehensive recommendations of the Advisory Council of Jurists of APF which impose stringent legal and administrative reforms on each of the member NHRIs, much of which is yet to be implemented.
5. To prevail upon Governments to vest NHRIs with effective inquiry and enforcement powers in regard to cases of torture both by the state and non-state actors.
6. To set up an effective fast track mechanism to receive complaints and to hear and determine such complaints.
7. To refrain from practices that encourages conciliation/mediation where they lead to the impunity of torture perpetrators.
8. To call upon Governments to reform laws and administrative practices that encourages and/ or permits torture.

Given that the Asia Pacific region has the highest number of countries with the death penalty still in force, we re-affirm a particular duty on NHRIs in the region to consistently uphold the recommendations of the Advisory Council of Jurists to the APF on the death penalty:

9. To call upon Governments to ratify the Second Optional Protocol of the ICCPR and in the alternative, to put a *defacto moratorium* on the death penalty.
10. To spearhead widespread awareness campaigns against Torture and the Death Penalty.

We call upon the APF Secretariat to effectively monitor the implementation of the recommendations of the ACJ on the part of its member NHRIs and to make due compliance a part of a re-accreditation process.

## **NGOs statement on terrorism**

**Presenter:** Piccolo Willoughby, Citizens Constitutional Forum, Fiji

*Statement of the following NGOs:*

*Amnesty International*

*SWARUP (Voice of the People, Malaysia)*

*Pacific Concerns Resource Centre*

*Citizens' Constitutional Forum*

Chairperson, APF Members, Government Representatives, Ladies and Gentlemen, I wish to address the meeting on the issue of terrorism and, more specifically, follow-up to the final report of the Advisory Council of Jurists on the *Reference on the Rule of Law and Combating Terrorism*, which was completed in May 2004.

Since that report was completed, more repressive counter-terrorism laws have been introduced in the Asia-Pacific region, and violations of human rights by the security forces and intelligence agencies have not abated – including, in some countries, torture and detention of suspects without charge or trial.

In some countries, acts of what might be called “State terrorism” have been perpetrated by the security forces, especially against minority religious and ethnic communities.

Muslim communities around the region have continued to be ostracised and demonised as the perceived source of the terrorist threat.

The Advisory Council of Jurists’ report on terrorism contains many useful findings and recommendations concerning these matters. Specifically, the report called upon national human rights institutions to:

“seek to influence legislators and inform public debate about the human rights implications of counter terrorism measures and the legal obligations of States in relation to international human rights instruments and norms” (page 12); and

“take an active role in educating all sectors of the community, for example, lawyers, journalists, doctors, police, the military, the judiciary and legislators, on the meaning and application of the international law of human rights and the general principle of the rule of law.” (page 12)

Concerned NGOs would like to know more about what national human rights institutions in our region are doing to implement these recommendations. The so-called “Global War on Terror” is clearly far from over, as the current fighting in Gaza and southern Lebanon attest.

We believe there is a great urgency to this issue, not only because both terrorism and State terrorism constitute an imminent threat to human life, but also because excessive government responses to terrorism are challenging the legitimacy and relevance of the whole body of international human rights law that has been developed over the past 60 years.

States have an obligation to uphold human rights while countering terrorism, and national human rights institutions have an important role to play in helping to persuade governments that this is possible and, in fact, that it is vital to success.

## NGOs statement on trafficking

**Presenter:** Renu Rajbhandari, Women's Rehabilitation Centre, Nepal

Participating NGOs would like to thank the APF and Delegates for the opportunity to contribute to the discussion on standing issues. In the case of trafficking, we recognise and appreciate the significant dedication the APF has already demonstrated to the issue in the region. In addition to the particular focus on trafficking in the 2002 Annual Meeting and creating provisions for people working on trafficking issues within NHRIs, 2005 saw an issue specific workshop in Sydney. As a result, many aspects of this issue are well known and efforts are in place for a strategic and coordinated response on the part of the APF.

Rather than seek to revisit work already undertaken we instead draw your attention to general points of interest that may complement or bolster the APF's approach thus far. NGOs in attendance wish to state that:

- Despite the significant international attention, including policy and programmatic responses, evidence both anecdotal and empirical suggests human trafficking continues to increase across the region.
- Human trafficking cannot easily be separated from labour migration issues, including working and living conditions for migrant workers, and we advocate that efforts to redress trafficking pay adequate attention to this associated issue.
- Varying government definitions of trafficking continue to constrain and complicate regional responses.
- Whilst some governments have been able to reflect international laws and treaties in domestic legislation, where this is not the case addressing trafficking remains particularly problematic
- Across the Asia Pacific region, significant regional variations between sub regions persist.
- Opportunities exist to partner with regional activities (especially SA and SEA) currently addressing the issue.
- Discrimination based on caste, class and gender is the reality of this region. Practices of foeticide, violence against Dalits and existence of large number of Dowry deaths are some of the examples from South Asia. These serve as root causes for trafficking.
- Political instability, corruption, lack of good governance have made people's lives difficult and together with globalization of neoliberal economic policies have been eroding people's livelihood options, forcing people to look for livelihood options outside their countries.
- Increasing demand of labor in the services sector globally has created opportunity of employment for the people uprooted by economic and political policies of their own countries.
- Inability of sending countries to provide information to protect rights of their own citizens during the process of migration and at work has made migrant population weak and lack of appropriate legal and support mechanisms to protect migrant workers in various sectors of work (including informal) in receiving countries together with demand of controllable labour within competitive market sector of receiving countries has provided fertile ground for the traffickers.
- Global stereotyping of women's work and low value accorded with such work, not recognizing and treating women's contribution in the domain as "work", has facilitated the exploitation of women and made them vulnerable to trafficking.
- Due to overarching corruption and weak legal mechanisms of different countries, fake documents to facilitate migration, are accessible, which has further facilitated trafficking, and especially trafficking of underage population.
- Trafficking inside and outside the region for various purposes such for sexual exploitation, labour exploitation, marriage, camel jockeys – these causes are compelled by various causes must be taken into account and effectively redressed.

**Recommendations:**

1. Urgent need to review policies and laws on labour, migration and immigration in the region and work for the repeal of discriminatory provisions especially in receiving countries.
2. Create regional mechanism to address trafficking issues
3. Appoint special rapporteur on trafficking for the Asia Pacific region. Formulate guidelines to protect rights of migrants, and persons affected with trafficking in line with UN guidelines
4. Create appropriate redress mechanisms for trafficking survivors.
5. Review existing regional legal mechanisms available (e.g. ASEAN Declaration in Trafficking in Persons (2004); the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002); the Coordinated Mekong Ministerial Initiative against Trafficking process and its Memorandum of Understanding and Sub-regional Plan of Action (2004); and bilateral agreements such as those concluded between Thailand and Cambodia and Thailand and Lao PDR) and propose amendments to those which are not compatible with human rights standards.
6. Advise countries with no domestic legislation on trafficking to enact domestic legislation complying with international human rights standards
7. Strengthen bilateral for labour deployment
8. Create a support desk for migrant workers irrespective of their legal and documented status within NHRIs, where migrant victims can report without any fear of being penalized.
9. Initiate a campaign to eliminate all forms of violence against women migrants in all receiving countries.
10. Initiate a campaign to end all forms of violence against women dalits and minorities in all countries of the region, focussing in countries of origin.
11. Advocate for the allocation of adequate and appropriate resources needed for proper redress of trafficked persons in collaboration of both country of origin and destination, putting interest and rights of trafficking survivors in centre.

## **NGOs statement on child pornography**

**Presenter:** Sera Salato, Fiji Women's Crisis Centre

The situation is that there have been reports in the region where children as young as four have been subjected to such abuse. There is potential for it to reach an exponential growth rate (if it has not already) with the sophistication and advancement of technology, thus giving rise to trafficking pornography by electronic means, e.g. the 1997 Fiji case where a non-Fiji citizen was arrested after the discovery of more than 2000 images of child pornography on three computers and arrangements were already made for their sale (Save the Children Fiji, 2006).

Similar reports have been experienced by our Network members where some parents have become increasingly dependent on the wealthy and expatriates for their livelihood so that poverty and deceit induces them to sell their children. The vulnerable groups (the poor families and single mothers) are usually targeted by the perpetrators of this form of abuse.

The other area of concern is the availability of pornographic materials to children through the internet, videos/DVDs, books etc in some of our countries. This in turn gives the children the impression that pornography is normal and it is acceptable to take part in such acts. Such children are less likely to report any violation of their rights in regards to child sexual abuse and child pornography.

Unfortunately, children who are victims of such abuses face the risk of contracting sexually-transmitted infections as well as all of the other physical and emotional harm that is caused.

We therefore urgently recommend to this Forum that the APF and its members should:

- Push for the acceleration of reviewing any existing appropriate legislation and penal code to ensure the full protection of children
- Support the introduction by law enforcement agencies of digital evidence forensics capabilities to tackle this problem (Pacific Island Forum Secretariat)
- Support proper training for all service providers and law enforcement agencies in the understanding of this issue as well as dangers involved
- Promote the introduction of legislation to protect whistleblowers
- Assist in the establishment of partnership programs for all stakeholders to work together towards the elimination of child pornography and sexual abuse of children
- Emphasise the need to improve services for child victims of child pornography and sexual abuse, such as state care institutions, police, medical and court procedures, counselling and to ensure they are not deprived of their right to education
- To ensure that women and children are involved in all the programs to combat child pornography and all forms of sexual exploitation of children.