

**Sixth Annual Meeting On The Role of the Asia Pacific Forum  
In the Protection and Promotion of Human Rights  
Colombo, Sri Lanka, 24 – 27 September 2001**

**Oral Intervention of the Pre Forum NGO Consultation on the Advisory Council of Jurists reference on Trafficking  
Of Human Beings<sup>1</sup>**

The Pre Forum NGO Consultation suggests that the following legal and related questions surrounding the Trafficking of Human Beings, and in particular, of women and girl-children, be referred to the Advisory Council of Jurists (ACJ) for advice and recommendations.

The cross-border nature of the issues involved present a challenging inter-jurisdictional problem for regional lawmakers. At its core, the international trade in women and girl-children is about exploitation, violence, forced prostitution, abduction and fraudulent coercion of the most reprehensible kind. Immigration policies such as mandatory detention, serve to further exploit and to re-victimize the trafficked, whereas the real offenders are able to continue to operate with impunity. Presently, inadequate law enforcement mechanisms and a lack of cross-border co-operation mean that anti-trafficking initiatives have not given proper priority to the apprehension and prosecution of traffickers. Specifically, we recommend that the ACJ:

1. Examine existing regional legislative and administrative provisions in known source and host States, assess their practical application in so far as they affect the victims of trafficking both directly and indirectly, and make recommendations on law reform and related issues that would ensure that such provisions and their application conform with fundamental principles of humanitarian and international law.
2. Regional justice systems may be exploited to further victimize women and girl-children who are, for example, parties to hostile family disputes, victims of rape or trafficking, or who are subjected to prejudicial and arbitrary immigration policies. We suggest that in relation to victims of trafficking, the ACJ provide recommendations on law reform, rules of evidence, and Courts administration that would serve to minimize such manipulation and abuse of national judicial systems in the region and their processes.
3. Advise on methods through which States may enter into extradition, cross-jurisdictional and other collaborative arrangements geared towards the effective and prompt prosecution of perpetrators of human rights abuses against trafficked people.
4. Explore the creation of new asylum-like immigration categories and procedures dealing with victims of trafficking so that they are not treated as the wrongdoers in the situation. The fraud and other criminal conduct of traffickers must be distinguished from the actions of victims who are often driven to enter into arrangements with traffickers through necessity, systemic disadvantages, poverty, and fraudulent misrepresentation.
5. Examine the handling of victims of trafficking by regional immigration and law enforcement agencies and in particular, the detention and deportation of victims. The ACJ should further consider methods that would ensure that prompt prosecutions of traffickers are heard without adjournment except in the most exceptional of circumstances, and measures that would ensure that victim of trafficking are not removed by way of deportation from the jurisdiction of the prosecutorial Courts before the conclusion of criminal proceedings against traffickers.
6. Examine methods through which victims of trafficking may gain effective access to civil redress for loss of income and other benefits owed to them in return for their labour, and measures that would ensure that victim of trafficking are not removed by way of deportation from the jurisdiction of the relevant civil Courts before the conclusion of such proceedings.

I thank you for your kind attention.

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