

COOPERATION AMONG NATIONAL HUMAN RIGHTS COMMISSIONS IN SOUTHEAST ASIA IN THE AREA OF TRAFFICKING OF WOMEN AND CHILDREN

About this paper

This paper was submitted by The Commission on Human Rights of the Philippines as a result of an agreement with Indonesia, Malaysia and Thailand to cooperate on a number of important regional human rights issues in the region. One of these issues identified is the issue on trafficking in women and children which is a common concern to all four NHRIs. The CHRP was tasked to draft the paper that I am now about to present to you.

CLARIFYING DEFINITIONS

DEFINITION OF TRAFFICKING IN PERSONS

For this paper the definition as given in the protocol to Prevent Suppress and Punish Trafficking in Persons ,Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime is being adopted.

INTERNATIONAL DEFINITION

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons , by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The recruitment, transportation , transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered” trafficking in persons’ even if it does not involve any of the means aforementioned.

Human Trafficking Situation

As would be gleaned from what is to be presented, human trafficking particularly in women and children is a serious and common concern by the four NHRIs namely; The Philippines, Thailand, Indonesia, and Malaysia.

Philippines

The Philippines is a source, transit, and destination country for men, women. and children trafficked for the purpose of sexual exploitation and forced labor. Philippine women are often lured with false promises of legitimate employment and are

trafficked for commercial sexual exploitation to destinations throughout Asia, the Middle East, Africa, Europe, and North America. A significant number of the 71,084 Philippine women who entered Japan as overseas performing artists in 2004 are believed to have been trafficked into the sex trade. Philippine men and women who go overseas to work in domestic service and the construction of garment industries often face exploitative conditions that meet the definition of involuntary servitude—a severe form of trafficking in persons to a lesser extent. The Philippines is a transit point and destination for women from the People’s Republic of China (PRC) who are trafficked for sexual exploitation. Within the Philippines, there is internal trafficking from rural to urban metropolitan areas and sexual exploitation of children. Endemic poverty, a high unemployment rate, a cultural propensity towards migration, a weak rule of law environment, and sex tourism all contribute to significant trafficking activity in the PHILIPPINES.

The Government of the Philippines does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Although the Philippines remains a strong proponent of anti-trafficking measures in the context of international organizations, more progress in its law enforcement efforts is needed. The Philippines’ placement in the tier 2 Watch list is due to its failure to show evidence of increasing efforts to convict traffickers. The government made modestly better efforts to implement its anti-trafficking law , dedicating four prosecutors to focus on trafficking-related cases and providing training to law enforcement officials on the anti-trafficking law. The Philippine government also needs to make greater efforts to address allegations of corruption and fraud regarding the issuance of documents to facilitate the recruitment of Philippine entertainers to Japan, a process that traffickers exploit.- U.S. State department trafficking in persons Report, June 2005(full Country report)

Statistics and Figures (from June to November 2004)

- Based on the report of 26 Provincial and 30 City prosecution Offices nationwide, 53 cases had been received involving violations of Republic Act No.9208-the Anti-Trafficking in Persons Act-of which 28 are pending preliminary investigation, 6 dismissed and 19 filed in court and pending trial..
- Based on the data of the Department of foreign Affairs (DFA) there are 432 reported cases of trafficking/illegal recruitment, of which 318 victims were trafficked to Malaysia but 209 were already repatriated. Other destination countries include Nigeria, Bahrain, Brunei, Cyprus, Hongkong, Italy, Japan, Jordan, Kuwait, United Arab Emirates.
- ECPAT (End Child Prostitution, Child Pornography and Trafficking of Persons for Sexual Exploitation) documented 16 incidents of trafficking involving at least 91 victims, majority of whom were trafficked for sexual exploitation and forced labor.
- The department of Social Welfare and Development (DSWD) assisted 156 female victims of trafficking from Kota Kinabalu and Malaysia. 92.3 % of the victims are single, majority are 23 to 26 years of age, with only 6 minors. 52.6% come from Metro manila, 355 from Zamboanga, 17% from Bulacan and Pampanga, and the rest from Laguna, Cavite and Cebu City. 94 vicitms were provided with temporary shelter, stress debriefing and

legal assistance. 32 victims managed to escape the social workers and OWWA officers assigned to fetch them at the airport; 12 remain with the DSWD centers undergoing therapy sessions; the rest went back to their families after debriefing sessions.

- The Presidential Anti-illegal recruitment task force (PAIRTF) received 2,209 complaints for illegal recruitment and filed 274 cases before the Prosecutor's office.

Thailand

Thailand is a source, transit, and destination country for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. Thai women are trafficked to Australia, Bahrain, Japan, Malaysia, Singapore, South Africa, Taiwan, Europe, and North America for commercial sexual exploitation. A significant number of men, women, and children from Burma, Laos, Cambodia, and the People's Republic of China (P.R.C.) are economic migrants who wind up in forced or bonded labor and commercial sexual exploitation in Thailand. Regional economic disparities drive significant illegal migration into Thailand, presenting traffickers opportunities to move victims into labor or sexual exploitation. Internal trafficking also occurs in Thailand, involving victims from Northern Thailand, especially ethnic hill tribe women and girls. Widespread sex tourism in Thailand encourages trafficking for commercial sexual exploitation. The Government of Thailand does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Thailand showed clear progress in applying greater law enforcement efforts to fighting trafficking and systematically screening hundreds of thousands of undocumented illegal migrants to identify and provide care for trafficking victims in their midst. The government also made modest progress in addressing widespread trafficking-related corruption within the ranks of the police, immigration services, and judiciary. In November 2004, the Thai Government began a new, intensified effort to improve the vetting procedure used by the police and immigration authorities to identify trafficking victims. While reports suggest increased efforts by police and immigration officials to provide protection to trafficking victims, international organizations and NGOs continue to play an important role in screening of trafficking victims, especially underage victims found in street work. There are reports that child trafficking victims continued to be incarcerated in and deported from Thailand without proper victim care or any attempt to investigate the trafficking crimes committed against these children. - *U.S. State Dept Trafficking in Persons Report, June, 2005* [[full country report](#)]

Malaysia

Malaysia is a destination and, to a lesser extent, a source and transit country for men and women trafficked for the purposes of sexual exploitation and forced labor. As many as several thousand women from Thailand, Indonesia, the People's Republic of China (P.R.C.), Cambodia, and Burma are trafficked to Malaysia for commercial sexual exploitation. Additionally, some economic migrants from Indonesia who work as domestic servants and as laborers in the construction and agricultural sectors face exploitative conditions in Malaysia that meet the definition of involuntary servitude. Malaysian women (primarily of Chinese origin) are trafficked to Western Europe, North America, Australia, Japan, Singapore, and Taiwan. The Government of

Malaysia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. While the government took some steps to combat trafficking, Malaysia lacks comprehensive anti-trafficking legislation to enable officials to provide adequate victim protection and work effectively at the interagency level to combat trafficking in persons. The Ministry for Women, Family, and Community Development announced in December 2004 the establishment of a dedicated shelter for foreign trafficking victims. The National Human Rights Commission (Suhakam) drafted a national action plan on trafficking, though it has not yet been approved by the government. The Malaysian Government should screen illegal migrants detained for immigration violations to identify and provide care for trafficking victims that may be in their midst. The Malaysian Government should draft and enact a comprehensive trafficking law that recognizes trafficked men and women as victims and provides them with shelter, counseling, and assistance in repatriation. - *U.S. State Dept Trafficking in Persons Report, June, 2005* [[full country report](#)]

Indonesia

Indonesia is a source and transit country for men, women, and children trafficked internationally for the purposes of sexual exploitation and forced labor, while the country also faces a significant internal trafficking problem. Indonesian victims are trafficked to Malaysia, Saudi Arabia, Kuwait, United Arab Emirates, Hong Kong, Taiwan, Japan, South Korea, Singapore, and Australia. To a much lesser extent, Indonesia is a destination for women from the People's Republic of China (P.R.C.), Thailand, Taiwan, Uzbekistan, the Netherlands, Poland, Russia, Venezuela, Spain, and Ukraine who are trafficked for sexual exploitation. Within Indonesia, there is extensive internal trafficking primarily from rural to urban areas for commercial sexual exploitation and for other forced labor such as involuntary domestic servitude. The Government of Indonesia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In 2004, the Indonesian Government showed clear progress in applying greater law enforcement efforts to fighting trafficking and assisting Indonesian victims abroad, including migrant workers who had been trafficked. The government significantly increased its convictions of traffickers and adopted standard operating procedures for the protection of victims. In some Indonesian provinces, local governments drafted and enacted new laws and budgeted resources for anti-trafficking programs. Following the tsunami that devastated Aceh province, the Indonesian Government rapidly responded with appropriate measures to reduce the potential for trafficking of children from the region. While local governments gave greater priority to trafficking, translating national commitment to local action remained a problem. The Indonesian Government can take significant action by passing a strong and comprehensive anti-trafficking law; addressing internal trafficking; recognizing and taking steps to eliminate debt bondage for migrant workers; and arresting and prosecuting officials involved in trafficking. - *U.S. State Dept Trafficking in Persons Report, June, 2005* [[full country report](#)]

CIRCUMSTANCES PRESENT TO MOST IF NOT COMMON TO ALL FOUR COUNTRIES

TRAFFICKING in persons is the modern version of slavery, involving victims who are forced, defrauded or coerced into sexual , labor exploitation or other purposes .

- Human Beings in general and women and children in particular are brought and sold to cater to a variety of needs:
- Prostitution
- Sex slavery
- Forced or bonded domestic work
- Fraudulent forced Marriages(Mail Order brides)
- Sex-tourism
- Entertainment
- Drug peddling
- Begging
- Organ Trade
- Purchase and sale of babies
- Bonded Child labor
- armed conflict

WHO ARE TRAFFICKED

- Poor women and children from socially and economically backward groups from rural areas and urban slums; there are exceptions, however, to this. Many mail order brides come from lower middle class backgrounds .Some entertainment jobs abroad demand that the woman be conversant in English.
- Adolescent, young girls and women stigmatized in society;
- Unmarried/divorced/separated women;(Most trafficked women are of single status but there seem to be a preference also for divorced women. While poverty and the lack of alternative opportunities remain the main reasons for being in prostitution, a woman who has gone through an unsuccessful marriage or a failed love affair seems to be regarded as a candidate for the sex industry)
- Runaways/lost/abandoned/kidnapped/abducted children; and
- Ethnic minorities/illegal migrants
- Internally displaced persons

FACTORS THAT BRING ABOUT TRAFFICKING

Push Factors

SOCIAL

- Social obligation to help and support the family financially
- Desire for financial independence
- parent's attitude towards their children
- Pressure from peers
- Lack of education opportunities
- Consumerism/materialism
- Desire to be urbanized
- Discrimination against ethnic minorities

PERSONAL

- Wanting to leave family because of disintegration and/or experience of abuse, neglect or abandonment

ECONOMIC

- The financial crisis seems to have led to an increase in migration from home to urban areas.
- Areas where there is poverty, unemployment, underemployment, landlessness and armed -conflict are usual targets of unscrupulous recruitment agencies.
- When a family can no longer cope with responsibilities due to financial problems, they resort to other means in order to meet their basic needs.
- For many families, reliance on daughters leaving for the cities to work in the entertainment industry has been seen as another way out of poverty.
- Wanting to leave family because of disintegration and/or experience of abuse, neglect or abandonment

Pull Factors

ECONOMIC

- Opportunity for financial upliftment / rewards
- Demand in the urbanized cities for children in prostitution
- Demand for child laborers because they are paid lower wages and they are not assertive of their rights as workers

SOCIAL / CULTURAL

- Demand for sexual services created by presence of military servicemen

- Existence of informal network, with relatives in the cities acting as referrals for jobs

- Desire to keep up with successful neighbors and peers

POLITICAL

- Policies such as the labor export policy, tourism program and the Visiting Forces -Agreement(VFA)

HOW ASIAN WOMEN ARE TRAFFICKED

- Recruitment of women by agents
- Issuance of fake documents
- Women and overseer travel thru various ports
- Overseer departs
- Work, accommodation and transport is arranged by syndicate
- Women work as prostitutes with possible spread of infectious diseases
- Women pay part of earnings to syndicate and brothel owner
- Foreign currency moved offshore
- Law enforcement action against women and syndicate principals
- Some women and principals deported and /or imprisoned

KEY PLAYERS

PRIMARY

- Crime Syndicates
- Master Operators
- Trafficking gangs /networks
- Pimps and procurers
- Brothel owners/Madams
- Tourists and travel Agencies
- Employment agents

SECONDARY

- Parents/relatives/neighbors and friends
- Local/influential leaders
- Local goons

CHALLENGES

- Curbing graft and corruption
- Addressing the pull and push factors
- Seeking and opening avenues for victims such as seeking redress in destination countries/engaging other countries in the effort to combat trafficking(victims realization usually comes only when she reach her destination)
- Coordination of legislation (The Philippine definition of traffick which includes cases where there is consent is not replicated in other countries)
- Lack of Trafficking Laws

- Absence of data bank
- Building capacities for all duty holders
- Information dissemination
- Treating human trafficking as a human rights issue
- addressing impunity

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ROLE OF NHRIs

National Human Rights Institutions play a very important role in addressing human trafficking issues because the issue is necessarily linked with human rights. Thus, its role will include but not be limited to the following:

- ADVOCATE
- PROTECTOR
- ADVISOR
- MONITOR

Areas of Cooperation

It is recommended that synergism among the National Human Rights Institutions In Southeast Asia in the combat against trafficking of women and children should focus on the following:

Investigate on its own or on complaint by any person cases of trafficking of women and children committed within Southeast Asia;

- Request the appropriate government agency to permit trafficked women and children to stay in the country of destination temporarily or permanently when possible;
- Cooperate with the concerned embassies for the repatriation of the victim to their country of origin, if requested;
- Request the appropriate government agencies to assist trafficked women and children, to include providing victims with appropriate shelter, medical attendance, counseling and other support;
- Provide appropriate legal assistance to trafficked women and children;
- Encourage and facilitate information sharing and dissemination among ASEAN countries;
- Encourage and support fact-finding and research on the magnitude and nature of the situation of trafficking of women and children in Southeast Asia;
- Enhance and exchange documentation of experiences, best practices and lessons learned regarding recovery, repatriation and reintegration, in order to develop and provide appropriate short and long term assistance to the victims of trafficking.
- Develop anti-trafficking information materials for dissemination to concerned diplomatic and consular missions, including information where to seek assistance;
- Promote public awareness of trafficking in persons and sustain collective/coordinated advocacy efforts;
- Build networks of women and children's rights advocates within Southeast Asia;
- Encourage existing regional economic forums to examine the relationship between economic development and trafficking in persons, especially women and children;

- .Encourage the concerned governments to forge regional agreements to prevent, detect and investigate trafficking across boundaries and to strengthen border controls;
- Support regional organizations and institutions in their efforts to combat trafficking of women and children;
- Encourage cooperation at the regional level among law enforcement and as well as social and health workers of countries concerned through systematic exchange of investigative information leading to prosecution of traffickers; and
- Promote regional training of relevant officials including police, judges, prosecutors, customs, immigration, border guards, as well as consular authorities.

STATUS

The four thematic papers on NHRIs cooperation including this one will be discussed on a three day conference that will be funded by the European Commission on the first quarter of next year.